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Governing female sexuality: Prostitution, problematic associations and the subcommittee on solicitation laws.

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**GOVERNING FEMALE SEXUALITY:
PROSTITUTION, PROBLEMATIC ASSOCIATIONS AND THE
SUBCOMMITTEE ON SOLICITATION LAWS**

by

Olga Marques

**A Thesis
Submitted to the Faculty of Graduate Studies and Research
through the Department of Sociology and Anthropology
in Partial Fulfillment of the Requirements for
the Degree of Master of Arts at the
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ABSTRACT

Fuelled by the murder and disappearance of sex workers in British Columbia, the Subcommittee on Solicitation Laws (SSLR) was enacted to review current solicitation laws and recommend changes to ensure the safety of sex workers and the communities in which they work. Discourses of prostitution used by the SSLR were analyzed using governmentality literature (Rose, 1999) and Fairclough's (1992) social theory of discourse, to determine their continuity and variability from existing prostitution discourses, as well as their embodiment within the problematic of female sexuality. Although prostitution is not illegal in Canada, associations with crime, violence and public nuisance, serve to problematize prostitution and render it governable. It was found that discourses of prostitution used by the SSLR were similar to those of the previous Canadian governmental committees. This analysis also documents the shift from the problematization of prostitution (protectionist rationalities) to the problematization of the governance of prostitution (neo-liberal rationalities).

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*The key to wisdom is this –
constant and frequent questioning...
for by doubting we are led to question and
by questioning we arrive at the truth.
- Peter Abelard (philosopher)*

For instilling in me the need to constantly question what I hear, and to not be afraid of raising my own voice, I express the greatest of gratitude to my thesis advisor, Jacqueline Lewis. I am indebted to her for her unwavering faith in me, particularly at my moments of frustration. Although a demanding teacher and (very) thorough editor, I have benefited greatly from her brilliant scholarship. Words cannot convey my respect for her as an academic, teacher and friend, and my appreciation of her continuous support, both professionally and personally.

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I. INTRODUCTION

While prostitution itself, that is, the exchange of sex for money, is not illegal in Canada, several activities associated with prostitution are prohibited by the *Criminal Code of Canada*.¹ Illegal activities include operating or being found in a common bawdy house (s.211, s.210), procuring or living off the avails of prostitution (s.212), and purchasing sexual services from persons under the age of 18 (s.212(4)) (Lewis and Maticka-Tyndale, 2000). In Canada, the most common prostitution-related charge is communication for the purposes of prostitution (s.213) (Van Brunschot, 2003). For example, in 1995, a total of 6710 communicating charges were laid in comparison to 334 charges for procuring and 602 bawdy-house related charges (Biesenthal, 2000: 296). As a result of the *de facto* criminalization of prostitution (Lowman, 2005), it is virtually impossible to engage in prostitution in Canada without violating the law (Biesenthal, 2000; Lewis and Maticka-Tyndale, 2000; Lowman, 2005).

Although it is not a crime, prostitution is a contentious issue, garnering much media and public attention directed at the perceived social and personal harm prostitution causes. Between 1981 and 1992, three governmental committees were enacted in order to address the issue of prostitution in Canada. The 1981 Committee on Sexual Offences against Children and Youth (the Badgley Committee), the 1983 Special Committee on Pornography and Prostitution (the Fraser Committee), and the 1992 Federal-Provincial-Territorial Working Group on Prostitution, were mandated to review existing legislation and judicial practices related to prostitution and present recommendations to address the problems posed by prostitution ('Federal-Provincial-Territorial', 1998; Lowman, 1998).

¹ See Appendix C for details on the specific sections pertaining to prostitution in the *Criminal Code of Canada*.

The Subcommittee on Solicitation Laws (SSLR), a subcommittee of the House of Commons Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness, was formed on November 24, 2004 and charged with reviewing solicitation laws and recommending changes. Unlike the previous three governmental committees, the SSLR, had the explicit purpose of improving the safety of sex workers and communities overall. Fuelled by the murders in Vancouver's Downtown Eastside,² NDP Party House leader Libby Davies, representing the riding of Vancouver East, the area in which the murders occurred, lobbied the justice committee to review prostitution laws and declared a moratorium on the prosecution of prostitution offences (Tibbetts, 2004b). Mandated to "review the solicitation laws in order to improve the safety of sex-trade workers and communities overall", the SSLR's aim was to recommend changes that would 'reduce the exploitation of and violence against sex-trade workers'" (Subcommittee on Solicitation Laws, 2004). Comprised of five members³ the SSLR met with various witnesses including, but not limited to, academics, community groups, police officers, prostitution advocacy groups, sex workers and religious organizations⁴ in order to discuss Canadian solicitation laws and possible avenues of reform.

Statement of Research Inquiry

Despite the substantial amount of research on prostitution, there tends to be a lack of attention on the forces that guide political and law enforcement reforms of sex work (Weitzer, 2000). There is even less research that focuses on how these reforms construct specific frameworks by which prostitution is problematized (Hunt, 1999). In conducting

² Charged with 27 counts of first degree murder, Robert Pickton, a pig farmer in Port Coquitlam, British Columbia, kidnapped and murdered female sex workers, most of whom were Aboriginal (O'Neill, 2003).

³ See Appendix A for a short biographical note on each committee member.

⁴ See Appendix B for a list of all witnesses appearing before the SSLR.

the literature review for this thesis, only two studies were found that analyzed the discourses of prostitution used within parliamentary debates (Kantola & Squires, 2004; Outshoorn, 2001). Such analyses are crucial, however, as it is important to be aware of the role governmental committees play in the process of constructing social problems (Brock, 1998), as the governance of a population “becomes possible only through discursive mechanisms that represent the domain to be governed” (Rose, 1999: 33). Understanding the discourses that are used to embody social issues such as prostitution also elucidates how the reliance on particular discourses has the “power to reorganize and subordinate other discourses” (Smith, 1999: 208).

Using discourse analysis, this thesis examines the discourses used by the SSLR to problematize prostitution in order to assess the continuity and variability of these discourses in relation to those used by the previous three governmental committees. I maintain that the manner in which prostitution (and consequently ‘the prostitute’), is made governable through associating it, or encompassing it within different discourses, aligns itself with the shift from welfarism to neo-liberalism. Due to these political rationalities, continuity in discourses used to problematize prostitution is apparent between the previous three committees and the SSLR. To this end, governmentality literature (Rose, 1999; Rose and Miller, 1992) and Fairclough’s (1992) social theory of discourse, both of which were inspired by the work of Foucault, provide the analytic framework of this investigation. Within this thesis, I use the term ‘discourse’ as does Fairclough (1992) to refer to the different ways that “social entities and relations [are] construct[ed] or constitute[d]” (3). Discourse, then, does not simply reflect social reality, but actively constructs it (Ainsworth and Hardy, 2004; Fairclough, 1992; Wood and

Kroger, 2000). It is a specific way of thinking about and acting on ‘problems’. ‘Political rationalities,’ are regularities within political discourse constituting different ways of articulating and conceptualizing government (Rose and Miller, 1992; Rose, 1999), which can be identified by means of discourse analysis. According to Rose and Miller (1992) such regularities are:

the changing discursive fields within which the exercise of power is conceptualized, the moral justification for particular ways of exercising power by diverse authorities, notions of the appropriate forms, objects and limits of politics, and conceptions of the proper distribution of such tasks among secular, spiritual, military and familial sectors (Rose and Miller, 1992: 175).

Welfarism and neo-liberalism represent different political rationalities which are linked to particular governing philosophies⁵ and technologies of governance. The shift from a welfarist, or protectionist, rationality to a neo-liberalist, or free-market, rationality, is used to highlight the variability as well as the continuity, in the discourses of prostitution used by the SSLR.

The Problematic of Unregulated Female Sexuality

Although it is legal to be a prostitute in Canada, engaging in prostitution-related activities is illegal. This tension between the legality of an identity/action and the illegality of carrying out that identity/action indicates an underlying discourse that presupposes the need to regulate such behaviours. Agustin (2005) notes that “medical, sociological, criminological and psychological discourses have been fixated on those selling sex rather than those buying it, [and] on women rather than men” (67). As such, prostitution has typically been governed as a form of female criminality, with females

⁵ Welfarism is premised on the encouragement of “national growth and well-being through the promotion of social responsibility and the mutuality of social risk” (Rose and Miller, 1992: 192). Neo-liberalism

typically facing harsher sentences for prostitution-related offences.⁶ Public concern over prostitution is generally limited to the actual exchange of sexual services for economic gain, in which women are always conceptualized as the providers of the sexual services being sold (Boritch, 1997). While it is generally acknowledged that the exchange of sexual services for economic gain is intrinsic to the construction of heterosexual gender roles in patriarchal societies⁷ (Boritch, 1997; Sanchez, 2001), the prostitute identity ultimately relies on a “vague set of moral prescriptions” (Boritch, 1997: 93) that distinguish it from traditional conceptualizations of womanhood.

Historically, the constitution of prostitution as a criminal offense was “linked to fears and anxieties aroused by nineteenth-century moral crusaders concerned about expressions of sexuality that defied the boundaries of marital, heterosexual monogamy” (Sanchez, 2001: 63). ‘Normal’ sexuality was, and is, linked to discourses of ‘home’, ‘family’, and ‘marriage’ (Agustin, 2005; Sanchez, 2001; Smart, 1976); sexual practices that occurred outside of these domains were seen as deviant and needing regulation. It was within these discourses that the categories of problematic and unregulated sexuality emerged. For Agustin (2005), due to the construction of marriage and families as ‘good’ and ‘normal’, “large numbers of people were discursively converted into social misfits-people without proper places in a domestic structure. They were also seen as threats to ‘normal’ society” (70). Women were divided into two classes, those that needed sexual

signals a shift away from state control or protection of the economy; rather it focuses on free-market methods.

⁶ Although between 1986-1995 almost half (47 per cent) of persons charged with communicating for the purposes of prostitution were men, women convicted of communicating tend to be charged more severely than males. For example, in 1994, 39 per cent of females convicted for communication were imprisoned, compared to only 3 per cent of the males convicted (Duchesne, 1997).

⁷ This is evidenced historically, as women were only allowed access to power or property through their relationships with men. Women have also been constructed as being financially dependent on the men

regulation and those that did not. Prostitution laws were created to regulate women who were seen to have “‘too many’ sexual partners and/or [have] chosen [their sexual partners] ‘too indiscriminately’ and for the ‘wrong’ reasons” (Boritch, 1997: 93).

Although Canadian prostitution laws use gender-neutral language, they are based on double standards of acceptable sexual behaviour for women, demonstrated by the harsher sentences women receive. As “formal codifications of attitudes towards women,” Smart (1976) contends that “to work uncritically within the framework of the law is to accept the past and current common-sense perceptions of the nature of women (and men) which inform the law” (7-8). Evidenced by the fact that prostitution-related activities are heavily regulated in Canada, while prostitution itself is legal, it is asserted that current laws aim to govern unruly sex by spatially segregating prostitution, ensuring that it is invisible to public view. Discourses of unregulated female sexuality continue to “remain active as a moral principle that guides social perceptions of appropriate sex-role behaviour and informs legislation” (Boritch, 1997: 100). The SSLR, by virtue of being the fourth governmental committee enacted to address prostitution and recommend legislative changes, denotes that although sexual double standards have loosened in contemporary times (Boritch, 1997; Sanchez. 2001), unregulated female sexuality is still considered to be problematic.

Organization of Study

This chapter provides an introduction to the scope of my research and outlines that problematic of unregulated female sexuality that manifests itself in the discourses used to embody prostitution and to make it governable. Chapter II describes the analytic

(their husbands) for whom they were to provide domestic and sexual services (Boritch, 1997; Sanchez, 2001)

framework of this thesis and provides an example to develop a sense of the methodology used. Chapter III is the first of three analysis chapters. This chapter provides an historical overview of the discourses of prostitution used by the three previous Canadian governmental committees. It also outlines the three common discourses associated with prostitution -- prostitution as a crime and public nuisance, prostitution and its links to violence and prostitution as form of work. These discourses will be examined with respect to the rationalities of welfarism and neo-liberalism. Chapter IV and V delve into the discourses used by members of the SSLR, with specific reference to current solicitation laws and to the recommendations made by the SSLR committee members, respectively. The concluding chapter, chapter VI, provides a brief summation of the continuity and variability of prostitution discourses between all four governmental committees within the context of shifting political rationalities. Discourses of prostitution used by the SSLR are situated within broader social theorizing of the regulation of female sexuality by examining the intersection of laws and the discourse of the 'good sexual citizen' as regulatory mechanisms.

The structure of this thesis was designed so that the entire work provides a representation of what occurred throughout SSLR hearings, in terms of the discourses used by SSLR members and the political rationalities to which these discourses speak. Speech is a multi-layered blend of thoughts, beliefs, experiences and dialogue on any given issue (Wood & Kroger, 2000) and variability in speech and discourse usage is expected between and within speakers. According to Van Leeuwen (1996: 34) every culture or 'a given context within a culture' has its own discourses which are prescribed and manipulated specifically according to social context and rationalities. In line with

Van Leeuwen's (1996) statement, I argue that no single discourse was subscribed to by all of the SSLR members, or by any particular member of the SSLR. In this respect, I present multiple excerpts from the SSLR transcripts in order to portray the various discourses used to problematize prostitution. The excerpts used within this thesis were selected as the most representative examples of the discourses used by individual SSLR members that correspond to specific rationalities of rule.

Terminology Used

Although I position my analytic standpoint within the sex work paradigm, I will be using the terms prostitution and prostitute rather than sex work and sex worker, throughout this study. While I am personally inclined to use the latter terms, prostitute and prostitution are the terms used in the *Criminal Code of Canada*, and as such are the words most frequently used within the SSLR. Sex work is an all-encompassing term used to refer to prostitution, escort work, exotic dancing, telephone sex, pornography and erotic massage (Bell et al., 1998). This provides another reason for the use of the terms prostitution and prostitute in this study, as the SSLR focused almost exclusively on prostitution. The only deviation from this occurs when I am referring to the work of another researcher or the speech of a specific person, in which 'sex work' is the terminology used.

II. ANALYTIC FRAMEWORK

The fact that prostitution itself is not illegal in Canada suggests that there is nothing inherently problematic with the act of prostitution itself. Rather, prostitution is made governable by problematizing the actions and activities related to it, such as solicitation. By embodying prostitution within particular associations (e.g., crime, violence, social disorder), prostitution becomes a governable domain. For Rose (1999) rendering a “population, a national economy, an enterprise, a family, a child or even oneself” governable, is a matter of “defining boundaries, rendering that within them visible, assembling information about that which is included and devising techniques to mobilize the forces and entities thus revealed” (Rose 1999: 33). It is through problematic associations that a domain, such as prostitution, becomes thought of as something that needs to be regulated. Analyzing the political discourses that make a domain amenable to government, elucidates “not only *the systems of thought* through which authorities have posed and specified the problems for government, but also the *systems of action* through which they have sought to give effect to government” (Rose and Miller, 1992: 177). In order to examine how prostitution was problematized by the SSLR, discourse analysis was used in this study.

Discourse Analysis

In outlining the three key features of discourse analysis, Wood and Kroger (2000) state that the first is an emphasis on *talk as action*. The emphasis in discourse analysis is on “what talk is doing and achieving” (Wood and Kroger, 2000:5). Language, or talk, is not only reflective but performative (Rose and Miller, 1992). Similarly, Smith (1999) contends that texts must be understood as “action” and as “organizers invented in one site

of ruling to multiple sites” (93). Consider the following extract in which Art Hanger (MP Calgary Northeast, Conservative Party of Canada) an SSLR committee member, states:

Excerpt 1 (SSLR Meeting 1, December 9, 2004: 20)

Unfortunately, when you are dealing with prostitution, it is organized crime. I don't care whether you're looking at Hell's Angels on a local level or some other groups that are affiliated substantially with prostitution and play a major role in the events that unfold in the lives of those women; if we ignore it or even skirt it, we're not going to get a full picture of what's going on. Being a former police officer myself, I have seen the misery that is attached to so much of this activity.

In this statement, Hanger is describing the status of prostitution, by associating it with organized crime. Following from the research conducted by Myers (1989) on politeness in scientific texts, the use of the marker⁸ 'unfortunately' by Art Hanger serves a dual purpose. Primarily, it politely mitigates his criticism of Hon. Hedy Fry's (MP Vancouver Centre, Liberal) previous comment:

Excerpt 2 (SSLR Meeting 1, December 9, 2004: 19)

I would hope that we don't go into the huge issue of international organized crime, because that will take us into a totally different place, where we don't want to go.

Secondly, the use of 'unfortunately' allows Hanger to maintain solidarity with the other committee members, by not stating that this is his personal viewpoint (for example, stating that, '*I believe*, when you are dealing with prostitution, it is organized crime').

The use of the marker 'unfortunately' also suggests that Hanger's statement is to be considered a fact, demonstrated by his use of the words "it is" when linking prostitution with organized crime, and then stating that his previous career was that of a police officer. According to Edwards and Potter (1992), category entitlements, such as identifying oneself as a former police officer, is a technique of fact construction, denoting

a prima facie truth value, in that one is 'entitled' to make a particular claim on the basis of a particular identity or membership. In this instance, 'talk' is performing many different functions. The utterances used not only serve to discount one opinion over another, they construct an opinion as factual and uncontested by competing versions of reality. Taken together, these utterances speak towards, and render visible, the discourse of prostitution as criminogenic.

The second key feature of discourse analysis is an emphasis on *talk as the event of interest*. There is a methodological shift, in discourse analysis, from a concern of "what 'really' happened to how those events are discursively constructed in the social world" (Wood and Kroger, 2000:9). As opposed to other methodological approaches, which view texts as a resource to explain behaviour, discourse analysts are interested in talk as the behaviour that is to be explained. This emphasis on 'talk' as the research interest enables the researcher to uncover *how* texts coordinate subjectivities and consciousness and universalize and objectify realities (Smith 1999: 195).

The third key feature of discourse analysis outlined by Wood and Kroger (2000) is an emphasis on *variability*. In discourse analysis, variability is seen as a tool for understanding language and the discourses by which a topic is constituted. In relation to the idea that language is action, language constructs different versions of reality, and is constructed for different functions, thus discourse analysts expect that there will be variability, as well as consistency, not only between different persons, but also within the talk of the same person. In contrast to other methodological approaches, variability is something to be understood,

⁸ Markers, used in pragmatic analysis, are words or phrases that do not contribute to the propositional meaning of a statement, but serve a function in the statement. For full treatment on pragmatic markers see

including the way in which participants use variability to construct their talk for different purposes, for different audiences, and for different occasions...the goal is to understand variability and to employ it for analytical purposes not eliminate it (Wood and Kroger, 2000:10).

Variability also relates to the assumption that discourse is the topic of interest, as it is due to variability that discourse analysts are able to examine the multiple versions of social reality that are created and recreated.

Fairclough's Social Theory of Discourse

Linking linguistic and social analysis, Fairclough's work falls under the sociocultural change and change in discourse methodological framework (Fairclough, 1992; Wood and Kroger, 2000). According to Fairclough (1992), discourse is constitutive in two senses: "it contributes to reproducing society (social identities, systems of knowledge and beliefs) as it is, yet also contributes to transforming society" (65). Similar to the focus of governmentality on political discourse and rationalities, Fairclough (1992) is concerned with discourse as a mode of political practice. As a political practice, discourse "establishes, sustains, and changes power relations, and the collective entities (classes, blocs, communities, groups) between which power relations obtain" (Fairclough, 1992: 67). Thus, the concern is on how discourses are not only constituted but in how they effect change.

For Fairclough (1992) language use always relies upon earlier discursive structures and builds on already established meanings (see also Phillips and Jørgensen, 2004). This is linked to Foucault's (1972) assertion that "there can be no statement that in one way or another does not reactualize others" (cited in Fairclough, 1992: 101). By

Wood, L.A. & R.O. Kroger. 2000, pp 208-211.

relying on the concept of intertextuality,⁹ the condition whereby all communicative events draw on earlier communicative events (Phillips and Jørgensen, 2004), both the construction and reproduction of discourses, as well as discursive change through new combinations of discourses can be examined. This provides the methodological standpoint of this thesis, as it facilitates discussion of why there was continuity in the usage of particular discourses of prostitution across the four prostitution-related governmental committees, as well as how a new discourse, of prostitution as work, was articulated by changing the boundaries of existing problematizations (for example, the shift from problematizing prostitution towards problematizing the governance of prostitution).

Analytic Method

Fairclough's textually-oriented discourses analytic approach unites three traditions: (a) detailed textual analysis relying on the field of linguistics, (b) macro-sociological analysis of social practices and discourses, and (c) micro-sociological analysis of how everyday life is a product of people's actions (Fairclough, 1992; Phillips and Jørgensen, 2004; Wood and Kroger, 2000). Based on these traditions, Fairclough (1992) devised a three-dimensional model of discourse analysis. The first stage consists of analyzing the linguistic features of a text, where texts include speech, writing or visual images. The second stage focuses on the processes relating to the production and consumption of a text as discourse. For Fairclough, these two stages are essential to gain insight into how discourses operate, but alone are insufficient for discourse analysis. Thus, the third stage, links the text to the societal and cultural processes in which it

⁹ For Fairclough (1992), the concept of intertextuality treats "texts historically as transforming the past-existing conventions and prior texts-into the present" (85).

belongs. It also considers how the discursive practice reproduces or restructures existing discourses and what the implications of this reproduction/restructuring are (Fairclough 1992; Phillips and Jørgensen, 2004). Fairclough's three-dimensional model informs my research, specifically my analysis of how prostitution was problematized by the SSLR committee members, and how this problematic is informed by specific political rationalities and an underlying concern on governing unregulated female sexuality.

Collection of Texts

For the purposes of this analysis, I examined the transcripts of the meetings of the SSLR. These transcripts are publicly accessible on the SSLR website (<http://www.parl.gc.ca/sslr-e>). Thirty-five meetings were scheduled between the period of December 9, 2004 and June 6, 2005, generally twice weekly, with several periods in which no meetings were held. Twenty-nine meetings were held in Ottawa while seven occurred in other Canadian cities.¹⁰ Of the twenty-nine meetings held in Ottawa, three¹¹ were done in-camera, and transcripts are unavailable. These consisted of private meetings to discuss subcommittee business, however minutes of proceedings of these meetings are provided on the SSLR website. All meetings were televised, with the exception of the seven meetings conducted in Canadian cities other than Ottawa, the three private subcommittee business meetings, as well as the meetings on April 6, 2005 (SSLR Meeting 22) in which representatives of the Canadian Association of Police Chiefs appeared before the Committee, and May 11, 2005 (SSLR Meeting 30), where

¹⁰ The meeting locations are as follows: March 15, 2005 (SSLR Meeting 12)(Toronto); March 16, 2005 (SSLR Meeting 13)(Montreal); March 17, 2005 (SSLR Meeting 14)(Halifax); March 29, 2005 (SSLR Meeting 17)(Vancouver); March 30, 2005 (SSLR Meeting 18)(Vancouver); March 31, 2005 (SSLR Meeting 19)(Edmonton); April 1, 2005 (SSLR Meeting 20)(Winnipeg)

¹¹ The three unavailable transcripts are from the following dates: March 7, 2005 (SSLR Meeting 10); June 1, 2005 (SSLR Meeting 34); and June 6, 2005 (SSLR Meeting 35).

representatives from Street Teams Initiatives and the Federation of Canadian Municipalities appeared. There were also an undisclosed number of meetings held with prostitutes that were done in-camera and not televised in order to maintain anonymity and confidentiality.¹² Neither transcripts nor minutes of proceedings were provided for these meetings.

Data Analysis

The goal of discourse analysis is to “trace explanatory connections between ways in which texts are put together and interpreted, how texts are produced, distributed and consumed in a wider sense, and the nature of the social practice in terms of its relation to social structures and struggles” (Fairclough, 1992: 72). In contrast with more conventional research approaches that begin by coding the data, reducing it into categories, and then looking for relationships among those categories (Wood and Kroger, 2000), discourse analysis tries to expand the data by breaking it apart into different utterances and then examining relationships among the various components in order to identify function (Fairclough, 1992; Wood and Kroger, 2000). While discourse analysts offer explanations as to the central tenets or goals of discourse analysis, few offer an explanation as to how to critically analyze discourse (Fairclough, 2000; Wood and Kroger, 2000). In his book, Fairclough (1992) provides a methodological outline to guide researchers in their attempt to discursively analyze text. However, Fairclough (1992) cautions that his outline is not to be “regarded as a blueprint, as there is no set

¹² Current and former prostitutes did appear before the SSLR during meetings that were televised. Upon the recommendation of Libby Davies to “hear from them [people in the sex trade] directly”, she stated that the SSLR “may have to do hearings in camera and we may have to do it in a much more informal way to provide an environment where people are willing to actually speak” (SSLR Meeting 1, December 9, 2004: 15). In-camera sessions were provided for those that did not want to be identified for fear of criminalization by the police and other societal consequences.

procedure for doing discourse analysis; people approach it in different ways according to the specific nature of the project, as well as their own views of discourse” (225).

To analyze the transcripts of the SSLR meetings, I followed a general sequence of analysis recommended by various authors (e.g., Fairclough, 1992; Gill, 1996; Potter and Wetherell, 1987, and Wood and Kroger, 2000), which commences with an initial reading of the data. The aim of this initial reading is to confirm the researcher’s focus of interest as well as identify the appropriate sections for analysis. As I followed the Committee Proceedings, by either watching the Meetings live on ParlVu¹³, or reading the transcripts available after the meetings occurred, I conducted my initial reading of the data while the SSLR was in progress. Wood and Kroger (2000), state that this preliminary reading of the data may indicate whether there should be a modification of the sample size, as the “the most likely problem for the analyst is that the sample is too large rather than too small” (80). Noticing that my sample, the text of the thirty-two meetings, was too large, I decided to analyze only the speech of the five SSLR committee members, as opposed to the text of all the speakers appearing before the Committee. In terms of policy recommendations, the most important knowledge is that created by the committee members themselves in response to the evidence made before them by the various speakers. Responsible for recommending changes to current solicitation legislation, these changes will be reflective of how SSLR committee members constructed the substantive issues around prostitution reflected by the witnesses appearing before the SSLR.

During the next step in the sequence of analysis, I reread the transcripts/data, identifying and interpreting patterns in the discourse, noting the association of

¹³ ParlVu is the Government of Canada’s live web broadcasting service, where Parliamentary Proceedings for both the Senate and the House of Commons can be viewed. Accessible at <http://parlvu.parl.gc.ca>

prostitution with various social phenomena, as well as to how discourses spoke to welfarist or neo-liberal rationalities. This fits with the process outlined by Wood and Kroger (2000) who suggest, “analysis essentially consists of a detailed and repeated reading of the discourse against the background of the discourse-analytic perspective” (95). Since the process of categorization varies significantly from the conventional process of coding, Wood and Kroger (2000) suggest the avoidance of the term ‘coding’, as the task of discourse analysis is not to apply codes or categories to the participants’ speech, but to identify the ways in which participants themselves construct categories. The emphasis in critical discourse analysis is on the socially constructed nature of categories, thus “categories and category construction should be constantly questioned rather than being taken for granted” (Wood and Kroger, 2000: 29). Taking an inductive approach, which does not use a prior coding system to examine the narratives of the SSLR committee members, my goal was to learn from the narratives themselves, and not force a coding system onto the data. Thus, while reading the SSLR transcripts, I identified the various patterns and discourses by which the committee members themselves constructed prostitution.

Following from Fairclough’s sociocultural change framework (1992), I focused my analysis on the social function of the text and its discursive expression and reproduction, in order to examine how SSLR committee members discursively constructed prostitution. In analyzing the data, I first searched for patterns in the text in terms of variability and consistency in discourse creation. Secondly I analyzed the linguistic construction of discourses, paying attention to the use of metaphors and specific words, among others. My conclusion serves to link this analysis to the broader

societal and cultural context, as well as how the discourses used by SSLR committee members were consistent with, and relied upon, the same political rationalities as the previous Canadian governmental committees.

Fairclough (1993) views discourse as a social practice, and as a “socially and historically situated mode of action” that is “socially shaped, but...also socially shaping or constitutive (134). This corresponds with Fairclough’s (1992, 1993) conception of the discursive (discourse) and the non-discursive (social) as being in a dialectical relationship, each mutually defining and re-defining the other. Chapter III historically situates discourses of prostitution within the previous Canadian governmental committees formed to address prostitution. As the first of three analysis chapters, the focus of chapter III is to illustrate the intertextuality between the discourses used by different governmental committees, in order to examine the consistency and variability of prostitution discourses.

III. PROBLEMATIZING PROSTITUTION

Canadian prostitution laws, aligned with the rationality of protectionism, problematize prostitution by simultaneously associating it with danger and with physical disorder. Thus, they are meant to both protect prostitutes from harm posed by third parties, such as pimps, as well as to protect the community from the nuisance of prostitution (Lowman, 1986; Davis and Shaffer, 1994). While it is recognized that Canadian criminal legislation against activities associated with prostitution is not intended, and is unable, to abolish prostitution, legislation attempts to render the trade visible by associating prostitution with criminality in order to make it governable. Laws also attempt to keep prostitution invisible to public view (Brock, 1998; Davis and Shaffer, 1994; Lowman, 2000, 2005) through technologies of governance such as laws that regulate where it can occur. This dual nature of the law, where prostitution is constructed as a legal activity but illegal to carry out, has caused confusion as to what the law is trying to achieve (Lowman, 2005: 7). As previously mentioned, prostitution itself is not illegal, thus in order to govern prostitution, governmental committees must problematize prostitution by associating it with various social and physical phenomenon.

Discourse Analysis to Study Parliamentary Committees

Brock (1998) contends that by creating special committees to deal with contentious political and societal issues, the government is able to operate under a façade of neutrality “reinforcing the idea of a democratic, pluralist state that is responsive to the public” (61). However, governmental committees and commissions are prime examples of “hegemony in action” (Brock, 1998:61), resulting in the empowerment of certain beliefs, values and practices to the partial exclusion of others. For Smith (1999; 1990)

modes of organizing society are simultaneously objectified and objectifying. The texts/discourse of the ruling “depend upon objectified forms of knowledge independent of particular subjectivities” (Smith, 1990: 84), serving to create a particular mode of textual organizing that is external to the individuals and social processes that are being organized. Far from being neutral, rational and scientific, the texts that governmental committees create mediate specific discourses of how prostitution is to be constituted, either as a crime and public nuisance, or as violence against women and children.

Analyzing parliamentary debates on prostitution with respect to the revision of sex laws in the UK, Kantola and Squires (2004) examined the discourses used in policy debates and compared them to the discourses used in the Netherlands, in order to examine if different policy options were recommended based on the available discourses. The most significant difference that Kantola and Squires found was the absence of the *sex work* discourse in UK Parliamentary debates. In the Netherlands, by virtue of associating sex with work, prostitution policy debates included discussions of technologies of regulation such as “measures of pay, time off, workplace safety, work conditions, hygiene, health and the recognition of the rights of prostitutes to refuse drunk or violent customers” (Kantola and Squires, 2004:93). In the UK, however, the absence of the *sex work* discourse, and the dominance of the *public nuisance* and the *moral order* discourse prevented these issues from entering policy debates.

Documenting the shift in discourses used in Dutch parliamentary debates, Outshoorn (2001) notes that the rise of the sex as work discourse was the most notable, displacing the moral order discourse in the Netherlands. While the sex work discourse enabled issues such as workplace safety to enter into Dutch parliamentary debates and

ultimately led to the legalization of prostitution in the Netherlands in 1999, it also led to contradiction within Dutch law. The image of the prostitute emerging within Dutch law is divided between the voluntary prostitute, an assertive sex *worker* who knows what she is doing, and the forced prostitute, “migrant women prostitutes who come to the Netherlands only to make money and do it in disreputable ways” (Outshoorn, 2001: 485). By discursively constructing sex work as either voluntary or forced, Outshoorn (2001) contends that Dutch MP’s were unaware of the limitations they created. The sex work discourse, as constructed by Dutch MP’s, may be “one more shift away from the original intent of the feminist sex work discourse, which has always been to improve the position of prostitutes themselves” (Outshoorn, 2001:487), not separate them into different classes.

As both Outshoorn (2001) and Kantola and Squires (2004) documented, the discourse used throughout parliamentary debates shaped policy recommendations and implementation. Both of these studies highlight the importance of discursively analyzing the discourses of prostitution used by parliamentary committees, as these discourses and their accompanying political rationalities dictate what technologies will be used to govern prostitution. While the discourse analytic approach has been used to study prostitution related parliamentary proceedings in the UK (Kantola and Squires, 2004) and the Netherlands (Outshoorn 2001), no such study has been conducted on Canadian prostitution committee proceedings. This study fills this gap, by analyzing the text of the SSLR, in order to highlight the consistency of prostitution discourses used by the SSLR committee members in relation to those used previously. In Canada, three federal governmental committees, the 1981 Committee on Sexual Offences Against Children and

Youth, the 1983 Special Committee on Pornography and Prostitution and the 1992 Federal-Provincial-Territorial Working Group on Prostitution, were enacted to study street prostitution, review existing legislation and recommend changes to prostitution-related legislation.

Canadian Prostitution Committees

Committee on Sexual Offences Against Children and Youth (Badgley Committee)

Charged with assessing the incidence and prevalence of sexual offences against children and youth in Canada, the Badgley Committee was instructed by the Canadian government, to “examine the problems of juvenile prostitution and the exploitation of young persons for pornographic purposes” (Committee on Sexual Offences Against Children and Youth, 1984: 3). Within the Badgley Committee mandate, prostitution itself was problematized as form of sexual abuse, particularly with respect to the involvement of juveniles in prostitution. In her analysis of how prostitution is constructed as a social problem by its association with problematic activities, such as public nuisance and child prostitution, Brock (1998) notes that the Badgley report served to frame juvenile prostitution as a ‘new’ crisis, and as a national social problem in the 1980’s, resulting in a moral panic over juvenile prostitution in Canada.

By virtue of the notion that children were supposed to be sexually innocent, the Badgley Committee deemed that young people involved in prostitution were young offenders, or delinquents, who brought harm upon themselves (‘Committee on Sexual Offences’, 1984: 1046). These youths were seen as “cast-offs of Canadian society,” many being “early drop-outs from school” who had “run away from home” (‘Committee on Sexual Offences’, 1984: 91). Thus, youth involved in prostitution were seen as

problematic as they were not connected to traditional regulatory institutions, such as 'home,' 'family' and 'school'. These discourses, of 'home' and 'family' are similar to those used to embody and govern female sexuality, in that, if women and youth are not connected to these institutions/discourses, they are seen as problematic. In an attempt to provide guidance and implement social programs aimed at reintegrating youth prostitutes into mainstream society, the Badgley Committee recommended that criminal sanctions be brought against children and youth prostitutes in order to guarantee that social intervention would take place ('Committee on Sexual Offences' 1984: 1046). This is consistent with moral technologies of discipline achieved through "enmeshing subjects in spatially organized practices for the formation of moral character, and in enclosures where those who lacked or refused this moral character could be reformed" (Rose, 1992: 106).

Special Committee on Pornography and Prostitution (Fraser Committee)

Fuelled by the 1978 Supreme Court decision in R.v. Hutt [2 S.C.R. 476], where the presiding judge ruled that "soliciting" involved "pressing and persistent behaviour" (Lowman, 1998), street prostitution came to be seen as a social problem that police could no longer control as the laws were not strict enough (Lowman, 2005; 1998). Faced with public pressure to remedy the 'street prostitution problem', the Government of Canada established the Fraser Committee, charged with the task of "ascertaining what had gone wrong with the prostitution law" (Lowman, 2005: 4).

In fulfilling its mandate, the Fraser Committee heard briefs from community groups, community members, prostitutes' rights organizations and academics (Brock, 1998; 'Federal-Provincial-Territorial', 1998). They also held public and private hearings

across Canada in order to obtain maximum input from Canadian citizens as to their concerns about prostitution ('Special Committee', 1985). While marginal compared to the level of participation of other speakers before the Fraser Committee, prostitutes' rights organizations were able to speak on behalf of prostitutes and appeal for the complete decriminalization of prostitution (Brock, 1998). In its final report, the Fraser Committee concluded that it was the "contradictory and often self-defeating nature of the various *Criminal Code* sections relating to prostitution" ('Special Committee', 1985: 540), that led to the increase in street prostitution. Rejecting the recommendation of the Badgley Report to criminalize juvenile prostitutes, the Fraser Report recommended the repeal of s.195 (1) (solicitation) of the *Criminal Code* and complete legal and social reform in order to address the underlying causal factors that lead to prostitution (Brock, 1998; Lowman, 1998, 2005; 'Special Committee', 1985). Thus the focus was on governing the causes of prostitution, rather than specific activities. Stating that "it is the nuisance caused to citizens, whether by harassment or obstruction on the street, or by unreasonable interference with their use and enjoyment of property, which is the ill to be addressed" ('Special Committee', 1985: 540), the Fraser Committee recommended that if prostitution was to remain legal, it needed to be decided where and under what circumstances it could occur. However, these recommendations were ignored, and in 1985 the street prostitution law was rewritten to make convictions easier to obtain (Lowman, 2004).

Federal-Provincial-Territorial Working Group on Prostitution

Similar to the previous two Committees, the Federal-Provincial-Territorial Working Group was charged with undertaking an in-depth investigation of the

prostitution control issue. Its purpose was to review existing legislation related to prostitution, host consultations with representatives of citizens' groups, justice officials, current and former prostitutes, municipal and provincial officials, community service providers and women's advocates, and present recommendations to address the 'problems' posed by prostitution (Biesenthal, 2000; 'Federal-Provincial-Territorial', 1998; Lowman, 1998). On the basis of this mandate, the Working Group identified three key areas of concern: youth involvement in prostitution, harm caused to neighbourhoods as a result of street prostitution, and violence against prostitutes ('Federal-Provincial-Territorial', 1998).

While the Working Group unanimously proposed many recommendations and solutions to combat juvenile prostitution, members were not able to come to a consensus as to the best technologies of governance by which to deal with adult prostitution ('Federal-Provincial-Territorial', 1998). Technologies such as social interventions, substance abuse treatment and safe houses were unanimously supported, however there was mixed support for policies such as the use of designated prostitution zones and the criminalization of customers via programs such as john schools¹⁴ ('Federal-Provincial-Territorial', 1998). Given the mixed response from representatives appearing before the Working Group and the lack of evidence presented before the Working Group that decriminalization¹⁵ was an effective model, the Working Group was "unable to

¹⁴ Prostitution offender programs, more commonly referred to as 'John schools', are "quasi-alternative measures" (Van Brunschot, 2003: 8n) that redirect clients of prostitution from the formal court system. Operating under the rubric of 'education programs,' the underlying message taught at John schools is that all prostitution clients are rapists and all prostitutes are victims in need of rescue (Marlowe, 1999; Van Brunschot, 2003).

¹⁵ Decriminalization of prostitution, according to prostitute rights' advocates, refers to the removal of prostitution-related legislation from the *Criminal Code of Canada* (Brock, 1998; Chapkis, 1997; Davis and Schaffer, 1994). Under this mode of governance, prostitution would then be regulated as a legitimate profession as opposed to as a crime.

recommend decriminalization of s.213 or the repeal of the bawdy-house provisions of the *Criminal Code* (s.210 and s.211)” (‘Federal-Provincial-Territorial’, 1998). This was contrary to suggestions made by the women’s advocacy groups, prostitute’s rights groups and youth involved in prostitution that appeared before both the Working Group and the Fraser Committee.

Prostitution Discourses

The Badgley and Fraser Committees, as well as the Federal-Provincial-Territorial Working Group, were enacted in order to address the prostitution ‘problem’ and make recommendations to address the problem. The final reports of these three Committees construct specific discourses by which to discuss prostitution. Although only the Badgley Committee was specifically created to address the issue of juvenile prostitution, both the Fraser Committee and the Federal-Provincial-Territorial Working Group focused much attention on the involvement of youth, as opposed to adults working in the sex industry, as well as the potential consequences that the sex industry posed to youth, such as the increased risk of child molestation and sexual exploitation (‘Federal-Provincial-Territorial’, 1998). As Weatherall and Priestly (2001) explain, “views of prostitution as crime, disease, sin and perversity play a role in everyday understandings of sex work as well as in legal responses to it” (324). These understandings of prostitution are integral features of the apparatuses of ruling (Smith, 1990) as they serve to construct the categories of ‘child,’ ‘woman’ and ‘problematic woman,’ and the relationship between these categories within the regulatory regime (Smart, 1992). The most common discourses used in studies conducted on prostitution are: prostitution as a magnet for crime and as a form public nuisance, prostitution as violence, and prostitution as work.

Prostitution as a Magnet for Crime and a Public Nuisance

Prostitution is most commonly associated with, and problematized as, a magnet for the drug trade and organized crime (Kantola and Squires, 2004; Van Brunschot, 2003). Dominating British parliamentary debates for the past 20 years (Kantola and Squires, 2004) and Canadian media coverage, particularly during 1982 and 1986, the period when the Bagley and Fraser Committees were formed and published their reports (Van Brunschot et al., 1999), this discourse attends to the visibility of prostitutes on the street, and the physical evidence of their trade, such as discarded needles, and used condoms littering the streets (Van Brunschot, 2003). Speaking towards the physical remains of prostitution, the discourse of visibility is characterized by signs of social disorder. For Skogan (1990), physical disorder “involves visual signs of negligence and unchecked decay,” while social disorder is a “matter of behaviour” (4). Problematized as both a visible social and physical disorder, “urban communities appear unwilling to accept prostitution as part of the landscape, at least if it happens to occur within a community’s direct line of vision, therefore providing policing agencies with the opportunity to embrace the ‘prostitution problem’” (Van Brunschot, 2003).

By virtue of being constituted as a publicly visible nuisance, prostitutes are often depicted as “offenders, demonstrating flagrant disregard for both [themselves] and the community in which [they] work” (Van Brunschot, 2003), where communities include non-criminal, non-prostitute women and children. Under this discourse prostitution is frequently associated with other crimes, particularly organized crime, and the drug trade. In a study of 30 crack-using prostitutes in the Toronto East Downtown area, Erickson, Butters, McGillicuddy, and Hallgren (2000) found that all of the prostitute women had

used cannabis, 28 had used powder cocaine, 25 had used LSD, 14 had used speed and 11 had used heroin. The women entered into street prostitution in order to support their drug habits and most of the women were involved in both the drug and sex trade prior to working on the street. Findings suggested that while crack-use was not the main impetus behind respondent's entry into prostitution as most were previously involved in the sex industry, it "intensified that life and led to more dangerous and perverse sexual activities" (Erickson et al., 2002: 784). Erickson et al. (2002) did not generalize the results of this study to the entire prostitute or female crack-using population, however, the image of the drug addicted prostitute is depicted in major Canadian newspapers (Van Brunschot et al., 1999). Such depictions perpetuate the notion of the prostitute as deviant, and by virtue of the social and physical disorder that is associated with prostitution, as a lure for criminal underground, making the street more dangerous for non-prostitute women and children (members of 'the community').

By virtue of their unrestrained sexuality, prostitutes' bodies are considered "unruly and as a continual source or potential disruption to the social order" (Smart, 1992: 31). Associating prostitution with crime, drug use, the immorality of children and with other social disorders, fosters a 'discourse of disposal' whereby demands to "get rid of prostitutes creat[ed] a social milieu in which violence against prostitutes could flourish" (Lowman, 2000: 1003). Criminalizing activities related to prostitution also contributes to crime because many criminals view prostitutes and their customers as attractive targets for robbery, fraud, rape, or other criminal acts. Criminals realize that such people are unlikely to report the crimes to police, because they would have to admit they were involved in prostitution when the attacks took place (Lowman 2000).

Prostitution and Association with Violence

Prostitution is also associated with violence and victimization (Monto, 2004; Shaver, 2005). The concern, however, is not with protecting the prostitute from violence but with protecting the members of society who are seen as the unwilling victims of the violence that is believed to be caused by prostitution. This discourse can be separated into three sub-discourses: prostitution *as* violence, prostitution *and* violence, and prostitution *is* violence.

(a) Prostitution as Violence Towards the Community

The prostitution *as* violence discourse, stems from the *moral order* discourse discussed by Kantola and Squires (2004), whereby “moral outrage about children being trafficked into Britain and forced into sex slavery” (91) has resulted in public policy debates that focus on the issues of forced prostitution and the protection of innocent victims of prostitution. Prostitution, as well as the other elements of the sex industry such as pornography, is treated as the cause of the violence that women and children face in society (McElroy, 1995; Shrage, 1996). Rape, sexual harassment, and child molestation have all been associated by proponents of this discourse, with the presence and prevalence of prostitution (Cossman and Bell, 1997; McElroy, 1995; Special Committee On Pornography and Prostitution, 1983). Mackinnon and Dworkin (1997) describe pornography as a form of prostitution and associate it to childhood sexual assault, as well as other social disorders, such the recruitment of youths into prostitution. Despite claims that prostitution leads to violence, these associations are not supported by current literature and a causal link between these issues and prostitution has yet to be

established (Davis and Shaffer, 1994; Special Committee on Pornography and Prostitution, 1983).

(b) Prostitution and its Inherent Violence

Using the discourse of prostitution *and* violence, a number of authors have documented the violence that is inherent within prostitution. Farley and Kelly (2000) contend that violence is a habitual and normal experience for women working as prostitutes. It has been reported that between 1991 and 1995, 63 known prostitutes were murdered in Canada, 60 of whom were female prostitutes¹⁶ (Duchesne, 1997). This figure accounts for 5 percent of the women killed in Canada during that period (Biesenthal, 2000; Brock, 1998; Lowman, 2000) and 2.1 percent of the 3300 homicides committed in Canada during the same period. It should be noted, however, that this figure is under-representative as much of the violence perpetrated against prostitutes goes undetected and unreported. Raphael and Shapiro (2004), in their study of the prevalence of violence perpetrated against 222 prostitute women who worked in indoor and outdoor venues in Chicago, Illinois, note that 21 percent of prostitutes reported being raped more than 10 times. Nixon, Tutty, Downe, Gorkoff and Ursel (2002) found that more than half of the 47 prostitute women interviewed from Canada's western Provinces reported experiencing violence from customers and pimps.

Although research has demonstrated the prostitutes are frequently victimized, violence is seen as something inherent to prostitution and prostitutes are blamed for their victimization as they chose to enter the sex trade. Assessing current literature, Farley and Kelly (2000) state that female prostitutes are frequently constituted as 'risk takers' in that

“they deliberately provoke the violence and harassment aimed at them in prostitution” (37). While they are constructed as ‘risk takers,’ under this discourse, prostitutes are not seen as entrepreneurs in the neo-liberal sense, as prostitution is not constructed as an industry but rather as violence that women need to be protected from. The Badgley Committee also used the ‘prostitution and violence’ discourse when they suggested, “there are no effective means of stopping the demonstrated harms that these children and youths *bring upon themselves*” (‘Committee on Sexual Offences’, 1984:1046; emphasis added).

(c) Prostitution Activity Itself is Violence

Radical feminists approach violence and prostitution in a different manner, by equating prostitution with violence. This perspective grows out of the work of Andrea Dworkin and Catherine Mackinnon, who hold the position that all sexual relations are essentially predatory (Valverde, 1987), and that prostitution is a form of male violence against women. From this perspective, prostitution is seen as violence that is done to women, not something that can, or would be, freely chosen by women. According to Farley and Kelly (2000), “to the extent that any woman is assumed to have freely chosen prostitution, then it follows that enjoyment of domination and rape are in her nature” (54). Indicating that a woman would never freely choose to be dominated and raped, women under this discourse are denied the right to choose to work as prostitutes. According to the radical feminist view of prostitution, prostitution *is* violence as customers are seen as predators and prostitution is paid rape (Lowman, 2005; see also Raymond, 1995).

¹⁶ The breakdown of this statistic is as follows: of the 63, 50 were murdered by their customers, 8 by their pimps/drug dealers, and 5 by their spouses/husbands/boyfriends. Twelve known prostitutes were murdered

Literature linking prostitution with violence, in any of its associations, is problematic in that it reproduces gender relations by constructing all prostitutes as victims and objects of domination. It also reduces their agency, and affords men with the power in the prostitute-client relationship. For Shrager (1994), not only does this construction “reify the image of the prostitute as a sexual subordinate, it also sustains the myths and norms of the sex industry, of potent men and submissive women, rather than transforming them” (134).

While it is agreed upon in literature that violence against prostitutes is a serious issue, Weitzer (2005) notes that research in this area is “deliberately skewed to serve a particular political agenda,” and that much of this research is done by “writers who regard the sex industry as a despicable institution and who are active in campaigns to abolish it” (934). Citing many methodological flaws in the recruitment of research participants, Weitzer (2005) points to the fact that Raphael and Shapiro (2004) selected respondents that were referred to them by ‘prostitution survivors’ that they had previously worked with (939). The use of the word ‘survivors’ to describe women who were able to exit the sex industry indicates that Raphael and Shapiro’s particular standpoint is within the prostitution is violence discourse. Recognizing this bias, they state that their research was designed

within a framework of prostitution as a form of violence against women and not prostitution as a legitimate industry... the survey questions and administration were likely biased to some degree by working within this framework and by employing surveyors who had left prostitution (Raphael and Shapiro, 2004: 132)

Although Raphael and Shapiro (2004) acknowledge their bias, other researchers fail to do so. Nixon et al. (2002) for example, talk about ‘pimps’ with respect to the

in 1995, 16 in 1994, 13 in 1993, 8 in 1992, and 14 in 1991. See Duchesne (1997).

violence they commit against prostitutes. The use of this word, however, demonstrates the narrow scope of their research. Speaking to the popular perceptions that all prostitutes have pimps, Shaver (2005) indicates that this perception is exaggerated and that the majority of women work for themselves. Another limitation with using the word 'pimp' is that many prostitutes do not use this terminology, as the people that they are dependent on are frequently their husbands, boyfriends or friends (Highcrest, 1997; Phoenix, 2000). By using the term 'pimp' to speak about the men that prostitutes have a dependency on, researchers are not only conflating the various relationships that prostitutes have with these individuals, they also risk having unreliable data, as prostitutes may not categorize their relationships as being that of prostitute-pimp.

Prostitution as Work

Put forth by prostitute-rights activists who appeared before the Fraser Committee, the *prostitution as work* discourse sees prostitutes as exercising an opportunity for profitable employment and work. In this discourse prostitution becomes:

a sexual service or sex work, a profession a woman can enter out of free will. The prostitute can dispense of her body, for the purpose of prostitution by contract, in which case the state should not intervene: it is the private affair of her as a citizen" (Outshoorn, 2001:478)

Sex *workers*, are constructed as rational economic agents performing a job and getting paid for it (Phoenix, 2000). In a study conducted by Phoenix (2000), all of the 21 prostitutes interviewed saw themselves as workers, and identified prostitution as an economic contract, evidenced by their use of phrases such as "just making money" and "just doing business" (Phoenix, 2000: 43). It must be recognized, however, that sex workers do not unanimously support the recognition of occupations in the sex industry as being *work* (Shrage, 1996). Objections to the *sex work as work* discourse often stem from the belief

that conceptualizing sex as *work* would inadvertently lead to more legal control of the sex industry and might legitimate potentially exploitative relationships.

The *sex work* discourse has framed parliamentary debates in the Netherlands (Kantola and Squires, 2004; Outshoorn, 2001) as well as in New Zealand (Weatherall and Priestly, 2001), which recently decriminalized prostitution with the *Prostitution Reform Act* of 2003, constituting prostitution as an economic issue beyond state interventionism. By defining prostitution as work, prostitutes rights groups assert that it will grant prostitution equal status with other professions (Monto, 2004; Shrage, 1996), and would enable a broad range of topics to enter into parliamentary prostitution debates (Bindman and Doezema, 1997; Kantola and Squires, 2004). Viewing sex work as *work* acknowledges the right of sex workers to the minimum work standards that other workers have acquired, such as unemployment insurance, health insurance, pension, disability and safe working conditions (Bindman and Doezema, 1997).

Use of this discourse, however, is not without its problems. In her study of the discourses used by parliamentarians in the Netherlands, Outshoorn (2001) discussed the ambivalence or contradiction within the sex work discourse, in that prostitution has to be seen as a 'special' profession. Unlike other workers, a prostitute cannot be held to her contract, as this would violate her bodily integrity. Also, unlike other forms of employment, where once a worker leaves the employer they relinquish the right to the benefits provided by that employer, prostitution could never be considered work that a woman would be required to do in order to retain her benefits (Outshoorn, 2001). Thus, while the sex work discourse provides an avenue by which to provide sex workers with basic rights, it also desexualizes the nature of the prostitution exchange. When

discussing sex work, it is important to note and address the various limitations of the sex work discourse (see Outshoorn, 2001).

The turn towards the discourse of prostitution as work, for example in the Netherlands and in New Zealand, signals a shift in political rationality. While associating prostitution with crime and with violence denotes a welfarist rationality that is concerned with protecting 'the community' and prostitutes as 'victims', the association of prostitution with work assigns it legitimacy. The focus of the former discourses is on how to govern prostitution as a problem, the latter discourse problematizes the governance of prostitution as the problem.

Situating the analysis of SSLR transcripts within a historical overview of prostitution discourses, is, for Foucault (1986) "not for knowing but for cutting" (cited in Rose, 1999: 58). Historical investigations are used

to disturb that which forms the very groundwork of our present, to make the given once more strange and to cause us to wonder at how it came to appear so natural. How have we been made up as governable subjects? What kinds of human beings have we come to take ourselves to be? What presuppositions about our nature are operationalized within strategies that seek to act upon our actions? How did human beings become the objects and subjects of government, the subjects of logics of normativity and of the practices and divisions in terms of that normativity-between the mad and the sane, the law-abiding subject and the criminal, the sick and the well, the virtuous and the vicious, the citizen and the marginal? (Rose, 1999: 58).

This thesis addresses these questions, with respect to how unregulated female sexuality is made governable by embodying it within prostitution and capturing it with various problematic associations. Guided by this historical analysis, chapters IV and V examine the continuity and variability of discourses of prostitution used by the SSLR committee members, with respect to its specific mandate.

IV. “REVIEWING SOLICITATION LAWS”

In her study of the evolution of prostitution laws in Canada, Shaver (1994) notes that the social and legal policies created to address prostitution have been historically grounded within a sexual moralist framework. There has been a shift, however, from the discourse of sexual morality towards a discourse of harm (Cossman, 1997). Framed within the context of the 1992 *R. v. Butler* decision,¹⁷ the Supreme Court of Canada argued that it was not concerned with the corruption of morality, but rather with preventing harm, particularly against women (Cossman, 1997). This shift in discourse suggests that prostitution had come to be encompassed by different associations, for example, from religious disobedience to social disobedience. Prostitution laws are thus justified “on the basis that they are needed to address the public ‘nuisance’ of street-based prostitution and/or to protect against exploitation of those working in prostitution” (Canadian HIV/AIDS Legal Network, 2005b).

While operating under the rationality of protectionism/harm reduction, current literature suggests that the quasi-criminalized nature of prostitution in Canada contributes to the victimization of prostitutes, by amplifying stigmatization and discrimination, displacing workers from visible to invisible work locations, and alienating workers from protective services (Benoit and Millar, 2001; Canadian HIV/AIDS Legal Network, 2005a; Davis and Shaffer, 1994; Lewis et al., 2005; Lowman, 2005; PIVOT Legal Society, 2004). The inconsistency between the harm discourse and the semi-regulated

¹⁷ *R. v. Butler* [1992] 1 S.C.R. 452 is the leading Supreme Court of Canada (S.C.C.) decision on pornography and state censorship. The accused (Donald V. Butler), who owned a store that sold and rented ‘hard core’ videotapes, magazines and paraphernalia, was charged with several counts of selling obscene material and exposing obscene material to public view, contrary to s.163 of the Criminal Code of Canada (obscenity law). The S.C.C. held that although the prohibition of obscenity “violated free speech as guaranteed by section 2 of the Canadian Charter of Rights and Freedoms, it was a reasonable limit under section 1” (Cossman, 1997: 107).

nature of prostitution has resulted in the current system, which neither eliminates prostitution nor reduces violence against prostitutes.

The SSLR was enacted to address the current state of prostitution laws in Canada. This chapter deals with the first clause of the SSLR mandate, that of “review[ing] current solicitation laws in order to improve the safety of sex trade workers and communities overall” (Subcommittee on Solicitation Laws, 2004).

Improving the Safety of Sex Trade Workers

Discussion surrounding the safety of sex trade workers by the SSLR can be grouped under three broad discourses. These include the discourse of responsibility, the nature of prostitution, and the association between juvenile and adult prostitution.

Discourse of Responsibility

In assessing the current solicitation laws with respect to the safety of sex trade workers, the text produced by SSLR members can be framed within a ‘responsibilization’ discourse. Referring to the onus of responsibility, or blame, for minimizing harms, O’Malley (1992) argues that the burden of responsibility has shifted from that provided by the state via the criminal justice system to citizens themselves. Within the SSLR hearings, however, two competing discourses with regard to responsibilization, or attributing blame, are reflected: responsibilizing the prostitute and problematizing laws for failing to prevent harm against prostitutes.

Responsibilizing the Prostitute: Victim Blaming

By virtue of engaging in a deviant occupation, prostitutes are frequently blamed for any victimization they suffer as they are seen as purposely placing themselves at risk (Farley and Kelly 2000; Van Brunschot et al., 1999). Van Dijk (1993) cites *blaming the*

victim discourse as one of the most common in parliamentary talk, as a mechanism by which to inferiorize, problematize and marginalize certain groups. The following excerpt, demonstrates how Art Hanger responsiblizes prostitutes for their victimization.

Excerpt 3 (SSLR Meeting 13, March 16, 2005: 67-68)

In the statement that you [Jennifer Clamen, Member, Coalition for the Rights of Sex Workers] have made or that I've heard others make-and I'd like you to explain to me how it all factors out-you mentioned that because of the soliciting laws or even the laws surrounding prostitution, the murdered women in British Columbia were put in a position that made them more vulnerable. Would you explain just how that happened? I'm very curious, because I haven't heard an answer yet. [...] It's still not clear to me. Some of the prostitutes who went with Picton to his farm went with him on their own, and some of them went there with other people. My point is that I've heard the blanket statement before about connecting or trying to connect the soliciting laws to all of the deaths that took place over there, and I'm having a hard time making that connection. I want you to help me out if you can. Those women had a time when they sat with this man. Many of them knew him from before. They drove to his farm with him. They had time to assess him. It's no different from this situation with the Green River killer. Those women went willingly with these individuals. So connect for me the soliciting laws and the deaths of those women.

Underlying Hanger's narrative is the assumption that the murder of prostitutes by Picton was inherently their fault as they "went with him on their own." His use of the pronouns 'they' or 'those' when referring to the actions of the female victims supports his positionality within a victim-blaming discourse as he is directly pointing to the actions of the victims, never attributing blame or responsibility to the offender. Furthermore, most of Hanger's speech consists of assertions, for example, "they had a time when they sat with him," "they drove to his farm with him," "they had time to assess him." He poignantly makes these statements as facts, which result in the conclusion that the prostitutes willingly went with the attacker and thus placed themselves in danger by their own free will, independent of associations to ineffective laws.

Hanger's use of the pragmatic connective *so*, in the last sentence, further supports the claim that he is operating from a victim-blaming perspective. Pragmatic connectives are words that function to link sentences and clauses, and express relationships between speech acts (Van Dijk, 1979). One of the best known pragmatic connectives, *so* "links two speech acts of which the second functions as 'conclusion' with respect to the first speech act" (Van Dijk, 1979: 453).¹⁸ In the last two sentences of Excerpt 3, Hanger states: 'Those women went willingly with these individuals. *So* connect for me the soliciting laws and the deaths of those women'. By commencing the second sentence with *so*, it implies that Hanger has made a conclusion regarding the willingness of the female prostitutes to go with their attacker, and that he is unable to make a link between their willingness and the law. In effect Hanger is placing the onus of responsibility on the victims who went with the offender on their own accord, denying the existence of a link between their deaths and the soliciting laws.

Problematizing the Legal System: Ineffectual Laws/Status Quo

With respect to attributing responsibility, Art Hanger was the only committee member who did not acknowledge the potential role that current solicitation laws play in failing to protect the safety of prostitutes. Paule Brunelle for instance gives credibility to the statements made by witnesses appearing before the committee that the communicating law does affect the safety of prostitutes.

Excerpt 4 (SSLR 8, February 16, 2005: 19)

In this committee we have heard that the fact that communication is illegal was actually endangering prostitutes and that they had very little time to look and properly assess their client, and they were therefore putting

¹⁸The word *so* has both a semantic and a pragmatic function. For instance, in the statement 'I was sick, so I stayed in bed', the use of *so* denotes a consequence or a cause and effect relationship between both clauses in the sentence (semantic). In the statement 'John is sick. So, let's start', *so* is used pragmatically, and implies that a conclusion has been drawn based on the first sentence. See Van Dijk, 1979.

themselves in dangerous situations. The suggestion has been made to us to decriminalize communication to help improve the safety of prostitutes. What do you [Dianna Bussey, Director, Correctional and Justice Services, Salvation Army; Janet Epp Buckingham, Director, Law and Public Policy, Evangelical Fellowship of Canada] think of that?

The usage of past-tense verbs in this excerpt is puzzling, as upon first glance it appears that Brunelle is implying that the law no longer “endangers prostitutes,” apportioning responsibility to the prostitute. However, when examining the context in which this comment was made, it appears that Brunelle’s use of the past-tense assists in her critique of the statements made by the two witnesses she is addressing. Both Diana Bussey and Janet Epp Buckingham advocated for criminalization, as “the current law allows for police intervention that removes prostitutes from the streets” (SSLR Meeting 8, February 16, 2005: 15). Indicating that they found current laws favourable and that they reduce violence and exploitation, Brunelle critiques them by referring to what the SSLR heard from previous witnesses that the law ‘*was* actually endangering prostitutes’. Her use of the word ‘actually’ reinforces that this is how her statement is to be interpreted.

Libby Davies problematizes the current legal system as not working due to contradictory laws. While Davies acknowledges that “there are impacts of the sex trade in local communities,” she also notes that the impact relates to the ‘nuisance’ of the sex trade.

Excerpt 5 (SSLR Meeting 3, January 31, 2005: 12)

I really don’t know of any law under which you take something that is considered to be a “nuisance” ... And I will acknowledge that there are impacts of the sex trade in local communities; it’s a complaint driven process. But you take something that’s considered to be a nuisance and create a whole environment in which you actually put the people who are creating the nuisance in incredible danger, and then you say you’ve solved the problem. I find that so contradictory, and it has taken such a long time to really have this contradiction emerge. It has taken the murder of many, many women for people to realize that the law itself, our position, is very

contradictory. It's a political question, it's a legal question. Has any recent work been done or is there any work now being done on the communicating law in terms of analyzing how it's being enforced or what its impact is relative to the situation in Vancouver? In the paper the other day, there was a story about another prostitute found murdered in Edmonton, frozen to death. Edmonton has had a whole rash of cases as well. I forget how many it is now, but I think it's something like thirteen.

In this excerpt, Davies directly problematizes current laws and techniques of governance, as they place prostitutes "in incredible danger." Like Brunelle, Davies' comment is a critique against the previous comments made by Lucie Angers (Senior Counsel, Criminal Law Policy Section, Department of Justice), regarding the final report of the Federal-Provincial-Territorial Working Group on Prostitution. Stating that "the working group did conclude...that the legislation did not have a serious impact on street prostitution" (SSLR Meeting 3, January 31, 2005: 12), Angers noted that the laws do solve the 'nuisance' problem of prostitution for communities.

While Hedy Fry does not explicitly problematize the soliciting laws for the violence perpetrated against prostitutes, she does assert the need to assess whether or not the laws are applied equally, and to explain why the laws are not effective.

Excerpt 6 (SSLR 18, March 30, 2005: 40)

What I think we need to talk about is if the law is unevenly applied, if the law is obviously either not working because it's not enforced or because people think it's really not appropriate to enforce it, and if we're talking here about the people who need help, it doesn't make sense to criminalize them. I just want to know how we could... I've heard it said that people don't want to work in bawdy houses or out of their homes, etc. Obviously everyone says we have to deal with the reasons why people are doing survival sex. We need to deal with addictions. We need to deal with poverty. We need to deal with exploitation. We need to do that. We need to help those who want to exit to exit, but as for the people who work in escort services and massage parlours, some of them obviously don't seem to want to exit. I was told that some of them are charging as much as \$1,000 a night. Obviously this is good money because many of them seem to think this is an okay thing to do. What we're talking about then is something that people turn a blind eye to. What we're talking about is how

to make it safe for those people who are the most vulnerable and who are into the survival sex industry. How do we make it appropriate for those people to practise in a safe way, so that they're not exploited, forced into doing some things they don't want to do, and not subject to violence, etc.? That's my big question.

Fry in this statement neither confirms nor denies an association between current prostitution-related laws and the safety of prostitutes, however, she does speak towards the criminalization of the "people who need help." What is interesting in this statement is that Fry states that "it doesn't make sense" to criminalize the "people who need help," implying that there is a population of prostitutes who do not need help and therefore can be criminalized. The polarization created between the 'people who need help' and the people who do not is evident in excerpt 6. This characterization of prostitution into two separate categories has implications for the ways in which SSLR members assess the efficacy of current solicitation laws.

Nature of Prostitution

In further analyzing excerpt 6, it is clear that Hedy Fry conceptualizes prostitution as either being 'survival sex' or not. It is also apparent that Fry wants to make prostitution safer for "those people who are the most vulnerable and who are into the survival sex industry," implying that working off the street is less dangerous, than working on the street. Although Fry does speak about exit strategies, as technologies of governance, for those prostitutes who want them, she is concerned with ensuring that people working in prostitution are not exploited or victimized.

What is also apparent in excerpt 6 is Hedy Fry's assessment of prostitution as a legitimate profession. When speaking about people working in massage parlours and escort agencies, she states "many of them seem to think this is an okay thing to do." The

use of the word ‘seem’ in this context appears to indicate that people working in these venues make a personal choice that it is appropriate when in actuality it is not. With respect to prostitution that is voluntarily chosen, Fry notes:

Excerpt 7 (SSLR Meeting 25, April 18, 2005: 22)

I’m a physician, and I can tell you that I have to accept what my patient tells me as being their reality. It is not up to me to decide that I know better than them what they should do and how they should feel. If someone tells me over and over that they think they would choose to do this for certain reasons, who am I to say they should not? “I don’t think you should feel that way. I know you are wrong, that you are not in touch with your feelings.” That strikes me as being a bit paternalistic. It’s a system where you get to say to people that you know better than they do, how they feel and what they want out of their life.

While this excerpt maintains the undertone that prostitution is not a legitimate occupation, Fry does recognize that she, or society in general, cannot dictate to someone that has freely chosen prostitution that it is a wrong choice. In assessing Fry’s text as a whole, it appears that while she does speak toward the polarized nature of prostitution, she situates the role of laws as being more protectionist towards ‘survival’ sex workers, while asserting an adult’s right to choose to work as a prostitute.

Libby Davies also frames prostitution into a dichotomous relationship between ‘survival sex’, which is street prostitution, and ‘the other part’, composed of massage parlours and escort agencies.

Excerpt 8 (SSLR Meeting 3, December 14, 2005: 19)

I was reading through some of the material we received from the researchers about what’s happening in the Netherlands. One of the things they did in the Dutch penal code-I’m not sure what year it was-was to distinguish between what they call voluntary and involuntary prostitution. Here, at least in Vancouver, we talk about the “survival” sex trade and then we talk about the other part of the sex trade, which we actually rarely talk about. I don’t even know how big it is-the escort services, the massage parlours, which we completely ignore. It does illuminate some very interesting observations, because if this whole regime of the history of what’s happened is based on a sense of morality about what is good or

bad or what is exploitative, then what we've tended to do is focus only on visibility. If we see it, we say that's terrible, it's bad, and we'll nail it through enforcement; but if we can't see it- i.e., it's through the escort services-then we tend to ignore it.

In this excerpt, Davies highlights what she perceives as a contradiction that is inherent within the laws. Although she does classify prostitution into two categories, she recognizes that the difference between them is their degree of visibility. Prostitution, it appears from her statement, is not inherently bad or immoral, it is only constituted as such if it is visible. Davies also notes the inconsistency in how laws are enforced. With respect to the "other part of the sex trade," which is largely indoors and hence invisible, "we tend to ignore it." The 'survival' sex trade, however, which is visible is 'nailed through enforcement'. The use of this metaphor (being 'nailed') relates to her views on law enforcement and the laws in general, as being persecutory and harmful. With respect to assessing current laws, Davies sees this differential treatment between the off-street and on-street sex industry as problematic.

Excerpt 9 (SSLR Meeting 5, February 7, 2005: 27)

The question I am very interested in is really the impact of the law. I think there is a broader area, and we will get into that, but the issue I've dealt with in my community in East Vancouver, which is mostly on-street prostitution where the visibility is, has been the impact of enforcement. I've really come to the conclusion that enforcement itself is creating an enormous amount of harm to the women involved.

Within excerpts 8 and 9, it is clear that Davies conceptualizes on-street prostitution as more dangerous than the more invisible forms of prostitution. This danger, for Davies, is associated with ineffectual legal practices.

Art Hanger, similar to both Fry and Davies, distinguishes between the on-street and off-street sex industry. However, he perceives it as a fluid distinction whereby prostitutes working on the street 'could go inside right now if they wanted to'.

Excerpt 10 (SSLR Meeting 19, March 31, 2005: 69)

Ms. Strachan [Carol-Lynn Stachan, As an Individual, sex-trade worker], I'm interested in your comment. First, you advocate repeal of section 213, which is the communication law. Evidence has shown in this committee time and time again that regardless of whether the law is there or not there, there are still girls working on the street. It doesn't go away because you change the law. It doesn't drive anybody inside. They could go inside right now if they wanted to.

Within this excerpt it is evident that Hanger conceptualizes on-street and off-street prostitutes as a homogeneous group that does not have specific boundaries. This underlying assumption that workers can move freely between different forms of sex work has been examined in sex work literature, which details a hierarchy within sex work. Lewis, Maticka-Tyndale, Shaver and Schramm (2005) found that although there is a hierarchy within different forms of sex work, certain barriers, such as gender and access to off-street clients and licenses, plays a role with respect to mobility across them. Escorts were able to move between escorting and on-street prostitution easily, whereas on-street prostitutes found it more difficult to become escorts, especially in cities with escort licensing. In terms of gender, transsexual and transgender (TS/TG) workers had a more difficult time moving across different from of sex work. Even though movement within sex work occurs, a hierarchy of stigmatization exists. According to Chapkis (1997), "women working in the sex industry operate within the constraints of social prejudice and unequal privilege" (106). While all sex workers face social stigma associated with their work, the whore stigma is not applied equally to all sex workers (Chapkis, 1997; Bruckert, 2002). Generally, sex workers who "go all the way" and have commercialized sexual intercourse occupy a lower status than sex workers who engage in more 'artistic', less overtly commercialized sexuality, such as exotic dancers and telephone sex workers. This hierarchy is especially evident in research on exotic

dancing, whereby dancers distance themselves from and stigmatize prostitution as a ‘dirty job’ (Bell et al., 1998; Bruckert, 2002), often “referring to themselves as “performers” rather than sex workers” (Lewis et al., 2005: 153). Due to the stratification within the sex trade, Shaver (2005) notes the essentiality of developing research strategies designed to reveal the diversity within and between each sector of the sex industry.

In excerpt 10, Hanger’s use of the word ‘girls’ when describing prostitutes also demonstrates an overarching discourse from he operates. By designating prostitutes as ‘girls’ he is using a juvenile form of ‘woman’, which may indicate that he views prostitutes as being child-like in nature and in need of protection. Attaching adult female prostitutes to ‘girls’ is one way that discursive practices regulate ‘the feminine’ (Smart, 1992). As was done by all three previous committees enacted to address the prostitution ‘problem’, the issue of adult prostitution within SSLR deliberations was overshadowed by concerns about youth prostitution. Focusing on issues of consent and sexual exploitation of youth, particularly female youth, serves to construct “young women as incapable of sexual responsibility” (Smart, 1992: 25). Thus confining, or constituting, adult female prostitutes to ‘girls’, implies that prostitutes lack agency or responsibility over their sexuality.

Concerned with violence against women in general, and not prostitutes specifically, Paule Brunelle approaches the nature of prostitution with respect to the problematization of current laws in a different manner than Art Hanger.

Excerpt 11 (SSLR Meeting 5, February 7, 2005: 25)

I want to put one question to all of you [Yolande Geadah, Independent Author and Researcher; Frances Shaver, Department of Sociology and Anthropology, Concordia University; Michelle Roy, Spokesperson, Regroupement Quebecois des CALACS]. Violence against women is increasing more and more, whether we’re talking about domestic violence

or violence in general. Violence is everywhere. Our society is more violent. What connection do you make between violence and prostitution? Do you see prostitution as something that can help to reduce violence against women? One might think that once prostitution is legalized, there is no longer a need to force women to perform the sex act because there is easier access to someone for that purpose. Or do you believe there is a connection between violence and prostitution?

Similar to Hanger's text which speaks towards the assumption of homogeneity, this excerpt demonstrates the underlying assumptions that frame Brunelle's conception of the nature of prostitution. Brunelle is fundamentally concerned with violence against women, which is evident throughout SSLR proceedings. Her line of questioning alludes to the idea that violence against women generally can be displaced onto the prostitute because she is there for 'that purpose'. Matching the popular belief/assumption that raping a prostitute is less traumatic than raping a woman outside of the sex industry, because prostitutes are used to abuse (Chapkis, 1997), Brunelle speech adheres to the discourse that prostitution is a form of violence, and that violence is a 'normal' part of working in the sex industry.

This excerpt also speaks towards the issue of rape, which Paule Brunelle defines as violence. According to the *Criminal Code of Canada*, the crime of rape/sexual assault is defined as inherently violent (s. 265.2); therefore all sexual assault is treated as an act of violence and not an act of sex, before Canadian courts. However, she questions whether legalizing prostitution would reduce the "need to force women to perform the sex act," as "there is easier access to someone for that purpose." In this instance it appears that Brunelle associates rape with a sexual act, contradicting her initial definition of rape as a violent act. Prostitution is not a solution to the cycle of violence against women as sexual offenders do not rape women or 'force women to perform the sex act'

for sexual gratification (Coates and Wade, 2004; see also Brownmiller, 1975). Relating sexual assault with the fulfillment of a sexual drive or normal sexual activity, “ignores the fact that sexual assault and sexual activity have completely different meanings: one is a unilateral act of violence, whereas the other is a mutual activity” (Coates and Wade, 2004: 508). Associating prostitution with sexual violence also plays into the stereotype that prostitutes cannot be raped and that forced sex is a ‘normal’ part of the sex industry, as described above.

Child Prostitution v. Adult Prostitution

Thus far, all of the excerpts presented within this chapter have focused on reviewing the current laws as they relate to adult prostitution. Juvenile prostitution was also a key issue for the SSLR. Although framed within different discourses, SSLR committee members opined that juvenile prostitution is a serious problem.

Conceptualized as “sexually exploited youth” Hedy Fry states that child/youth involvement in the sex industry is “exploitation at its worst.”

Excerpt 12 (SSLR Meeting 17, March 29, 2005: 24)

When I was Secretary of State for the Status of Women, we funded a conference in Victoria that brought in sexually exploited youth from all over the Americas, and it was due to Cherry Kingsley --who is in the audience right now --that we moved into that arena, that we talked about it. And the young people told us something very interesting. They say that a lot of them don’t work on the streets any more. They are working on the Internet. I don’t believe we can talk about choice here when we’re talking about children and youth. There’s no choice in this. This is exploitation at its worst.

Fry regards all child/youth prostitution as exploitative, “because they are underage, they can’t make the decision that they want to do this.” This is unlike her conception of adult prostitution, which as previously discussed in excerpts 6 and 7; she conceptualizes as a dichotomy between survival sex and freely chosen sex.

Amplifying the issue of child/youth prostitution, Fry speaks about the displacement of children and youth from working on the street to the Internet, a new social disorder. The fear that children will be easily lured into sexual acts by online predators, and that child pornography is easily accessible has culminated in the Canadian government enacting Bill C-15A, given Royal Assent on June 10, 2002. Bill C-15A included a new luring offence which makes it illegal to communicate with a child for the purpose of committing a sexual offence against that child and carries a maximum penalty of five years imprisonment. The Bill also makes surfing for child pornography a criminal offence. These amendments to the *Criminal Code* make Canada's child pornography laws the most comprehensive in the world (Tibbetts, 2004a), and further reifies the problematic of unregulated sexuality.

Rather than differentiating between adult and juvenile prostitutes, Art Hanger describes how adult prostitutes enter the industry as 'youngsters'.

Excerpt 13 (SSLR Meeting 24, April 13, 2005: 8-9)

On the whole issue of exploitation, of course, time and time again this committee has heard not only from those who have been involved in prostitution activity but from those on the periphery, where many of these girls have entered into this or have sometimes been pressed, if you will, into this activity as youngsters. They were 14, 15, and 16 years of age. I think the committee is of a mind that when it comes to young people, laws like this are basically necessary. But I don't know how you're going to distinguish between having laws that apply for those under 19 years of age and those over, for example, because there's always that inherent danger, I would assume, of the legalized portion still spilling down to girls of a younger age. [...] I don't know how it would be, in my own mind. I'm going to ask you [Chief Superintendent Kevin Vickers, RCMP] how you might envision this. How can you separate criminal laws that would apply to people who would abuse our youngsters and then allow adults to operate freely within the same parameters?

Using vivid metaphors to illustrate the necessity of criminal laws, Hanger speaks about being "pressed" into the sex industry as well as the "spilling down" of the potentially

legalized portion of prostitution. In doing so, he evokes an emotional response to these metaphorically physical acts of the sex industry on children.

In excerpt 13, Art Hanger once again problematizes the experiences/voices of adult prostitutes by associating them with children. Hanger's use of the word 'girls' to describe adult women working in the sex industry is indicative of his paternalistic attitude towards women, reducing their sense of agency and their ability to freely choose. He relegates women to a juvenile status by referring to them as 'girls'. Within this excerpt, this assessment is further validated, in that he simultaneously refers to adult women as girls (line 4) as well as speaking about actual children/ "girls of a younger age" (line 11).

Speaking towards current regimes John Maloney attempts to uncover approaches 'to keeping youth out of the system'.

Excerpt 14 (SSLR Meeting 21, April 4, 2005: 20)

You [Janice Raymond, Co-Executive Director, Coalition Against Trafficking in Women International] have a wide knowledge of various jurisdictions and their legislation. One common theme that has come forward is that having youth or children in the sex trade should not occur. Are there any jurisdictions that you feel have a better approach than others to keeping youth out of the system?

In this excerpt, Maloney is demonstrating that he agrees with the consensus that children and youth should not be involved in the sex trade. By commenting on Raymond's knowledge of various jurisdictions, or countries, and then noting that child/youth prostitution was a common legislative theme, asserts that (a) child/youth prostitution is occurring in many countries, (b) child/youth prostitution is legislated as an activity that should not occur, and (c) that although legislation exists across all jurisdictions, no one approach has successfully kept youth 'out of the system'.

For Libby Davies, while child/youth prostitution is a serious issue, she notes that the current crisis is tied to adult prostitution.

Excerpt 15 (SSLR Meeting 3, January 31, 2005: 11)

First, I very much agree with you [Catherine Latimer, Acting Assistant Deputy Minister, Department of Justice] that there has been a fair amount of attention paid to those who are underage or to youths who are at risk in the sex trade. That's good. It's very important. A lot of the federal-provincial-territorial studies and work have focused on that, but there are still serious issues there, and I don't want to minimize them. But the part that has been so glaring and has been this invisible crisis, really, one that erupts in the public realm every so often with situations like the missing women in Vancouver is the adult scene.

Framing her argument as a rhetorical contrast (Wood and Kroger, 2000) Davies simultaneously refers to the issues within adult prostitution as 'glaring' and 'invisible'. Stating that the harms within the "adult scene" are conspicuous, the invisibility does not lie within prostitution itself, rather, the invisibility refers to the harm perpetrated against persons working as prostitutes. These harms, the "invisible crisis," are only discussed in light of extreme events, such as the Picton case in Vancouver. Using the vivid metaphor of an eruption, issues of exploitation, stigmatization and violence against prostitutes only surface periodically but are forceful and severe when they emerge. Generally, prostitution is a hidden phenomenon, meaning that unless it is associated with children or causes a nuisance, society is indifferent to the plight of prostitutes. Invisibility within prostitution means "we don't need to look closely at prostitution or our response to it because we have the illusion that it is only a marginal part of our society" (Davis and Shaffer, 1994). Described by Lowman (2000) as the 'discourse of disposal', this indifference resulting from anti-prostitution rhetoric, has created an environment in which violence against prostitutes is facilitated.

Davies positions her statement in excerpt 15 within the work of the previous governmental committees that have focused almost exclusively on the “underage or to youths who are at risk in the sex trade.” As noted in Chapter III, although only the Badgley Committee was specifically legislated to do so, the Fraser Committee and the Federal-Provincial-Territorial Working Group focused much attention towards the issue of child prostitution. Demonstrating that associating prostitution with children, those members of the ‘community’ without a voice and who are considered asexual, is a common way to problematize prostitution and make it governable.

Improving the Safety of Communities Overall

Echoing the ‘prostitution as public nuisance’ discourse, prostitution is associated with having deleterious effects onto the neighbourhoods in which it occurs. Appealing to the visible sight of prostitution, it is believed that prostitutes “by their presence alone, bring crime, drugs and urban decay in their wake” (Davis and Shaffer, 1994; see Chapkis, 1997; Highcrest, 1997; Van Brunschot, 2003). While studies have yet to causally link prostitution to urban decay, a connection between prostitution and urban decay likely results from the desolate areas in which prostitutes work, rather than an inherent trait of prostitution itself (Chapkis, 1997; Highcrest, 1997). Concern arises over the effects that prostitution has on the community as well as community members due to its physical visibility.

Paule Brunelle refers to people who have had to move due to the existence of prostitution in their community.

Excerpt 16 (SSLR Meeting 15, March 21, 2005: 28-29)

In Montreal, we met with citizens from the Centre-South neighbourhood who were very angry, and with reason. I’m talking about people who have lived in the same house for 60 years and who had been forced to move

because there were sexual activities going on in front of their house, in front of the daycare centre. There were needles and condoms. Do you believe that decriminalization would resolve this issue? What can we do for those people? How can we solve this very real problem?

The use of the word ‘citizen’ to denote the residents of a particular community is of significance as it is a means by which to exclude people from certain communities.

Prostitutes, as will be further explored in chapter VI, are not considered to be ‘citizens’ of the communities in which they work, thus facilitating indifference towards prostitutes as well as creating a class division between prostitutes and non-prostitutes. From this perspective, “the real victims of the class conflict between those forced to live or work on the streets and those residents who “pay taxes,” are clearly those with homes and legal employment. It is *their* rights which are threatened” (Chapkis, 1997: 145). This sentiment is expressed in all SSLR excerpts dealing with the safety of communities, and is manifested in several ways throughout Brunelle’s speech.

Brunelle’s use of the word ‘very’ in excerpt 16 emphasizes the severity of both the citizen’s anger about the problem, and the reasonableness of the complaints of citizen’s residing in the neighbourhood. Speaking about residents living in their homes for “60 years and who have been forced to move,” Brunelle is pointing to the fact that resident’s rights have been threatened by the existence of prostitution in the Centre-South neighbourhood of Montreal. Referring to the occurrence of sexual activities in front of houses and daycares, the fact that citizens were ‘*forced* to move’, further reifies the problematization that citizen’s rights are being endangered due to the presence of prostitution in communities, and of its visible effects- the presence of condoms and needles.

Hedy Fry is also sensitive to the needs of the community, and specifically addresses the association of the sex industry on children.

Excerpt 17 (SSLR Meeting 16, March 23, 2005: 17)

I hear what you're [Jay Baltz, Board Member, Hintonburg Community Association] saying, and we have heard from many community groups for whom this is a problem because it's in their community: their children are playing on the streets, their children trip over condoms and needles in the park, and people are soliciting around the school zones. I also think it's a very good point that a lot of these women in this particular area are not doing this by choice. They are in fact exploited because they are on drugs; drugs are the exploitative vehicle. I agree with all of those things.

This excerpt points to Fry's perception that many prostitutes are 'on drugs' and that drug use is an external casual factor forcing women to remain in the industry. The conflation of the drug trade and the prostitution industry is frequently done. In both Fry's and Brunelle's statements, needles and condoms are mentioned as physical remnants of prostitution.

Similar to Paule Brunelle, Hedy Fry speaks of the needles and condoms that litter the neighbourhood, implying that it is a problem of large magnitude, as children "trip over" them. Suggesting that prostitution has infiltrated every aspect of the community, such as the parks and streets in which children play, the rights of children to a safe environment appear to be diminished, especially since soliciting also occurs around school zones. In the first meeting of the SSLR, Fry noted the importance of addressing the impact of prostitution on children.

Excerpt 18 (SSLR Meeting 1, December 9, 2004: 23)

And walking possibly to a public place, and Libby would know this very well. In her riding, the kids get up in the morning to go to school and they walk through a park, and there are condoms lying all over the place because that's where the sex trade is going on. There are things we need to talk about, because they're key to public safety as well, not just the safety of the workers but also the safety of the community and the public.

Fry elicits a vivid depiction of condoms being littered everywhere, particularly in places associated with children such as parks and the school. Interestingly, although Fry specifically tries to link Libby Davies with her statements, indicating that this problem occurs in her riding, Davies never corroborates this claim. Throughout the SSLR proceedings, Davies never speaks about, nor asks questions relating to the visible effects of prostitution in the community.

In looking at the effects that prostitution has on the community, all of these excerpts use language that appeals to emotions and a sense of outrage. Prostitution is often problematized by connections to children and families that make up the 'community', casting people working in prostitution as outside of a community realm. For example, Art Hanger differentiates the "good people of the community" from the drug dealers and pimps associated with prostitution.

Excerpt 19 (SSLR Meeting 19, March 31, 2005: 76)

This is an interesting discussion we're¹⁹ having right now. How do you dialogue with a drug pusher? I'd like to know. How does he fit into a community, when he is destroying the fibre of the community? I want somebody to explain that to me, because I don't see that he has a role in the community, to tell the community what it should be like. In this issue of prostitution, it is very clear many of those gals are on drugs, they start out at a very early age. And those pimps, who are often their drug pushers... He doesn't have a say in how that community is to tolerate him- no say whatsoever, from my perspective. I don't understand the issue of dialogue. Look at the criminal element, telling good people of the community, "You have to tolerate me for being a criminal. I'm going to abuse your kids, I'm going to threaten you" and a whole bunch of other things. I don't understand that. We're not there; I'm not going to go there- nor would I even advocate we go there, because then I'm bearing a burden

¹⁹ Prior to Art Hanger making this statement, Libby Davies made a comment about recognizing the myriad of voices and different perspectives about prostitution. In response to Davies comment: "Drug users live in neighbourhoods, and so do sex workers. Families do. Businesses have legitimate rights. So how do you sit down and talk that out without getting mad?" [SSLR Meeting 19, March 31, 2005: 75], Pieter de Vos (Community Organizer, Community Action Project), Peter Goldring (MP, Edmonton East, Conservative Party of Canada) and Carol-Lynn Stachan (As an Individual, former sex worker), all spoke about having a dialogue with all concerned parties as issues are legitimate on all sides.

of how our communities are breaking down by accepting that kind of situation.

As a way to problematize or disempower prostitutes, Hanger's polarization of the "good people" of the community and the "criminal element," serve to sustain existing negative perceptions surrounding the perceived threat that prostitution poses to the privileges of the majority. Involving "two complementary strategies, namely the positive representation of the own group, and the negative representation of the Others" (Van Dijk, 1993: 263), this excerpt justifies the inequalities faced by prostitutes, as they are seen as contributors to the 'break down' of the community. Placing a higher moral order on the 'good people' of the community, the 'break down' of communities is solely attributed to the existence of prostitution and drug pushers. Community members play no role in this break down, further emphasizing the threat that is posed. According to Hanger, drug pushers are not to be tolerated in the community, nor do they have any right to be heard within the community. Using extreme case formulations (Edwards and Potter, 1992), Hanger creates dialogue that is believed to be typical of a drug pusher. Referring to incidences of child abuse and general threats, Hanger draws attention to the insecurities and fears of community members, while simultaneously justifying the exclusion of certain groups from the community.

Hanger's concern in excerpt 19 is with the drug pushers and pimps that are assumed to force women in prostitution. The voices of prostitutes themselves are effectively rendered invisible within Hanger's speech, as their existence is tied to this 'criminal element'. Chapkis (1997) notes, "that the rights and concerns of sex workers disappear in the depiction of the problem as a war between victimized citizens and

dangerous and diseased criminals” (145). By constructing prostitution as criminogenic prostitutes themselves are problematized and denied of their rights.

Paule Brunelle is also concerned with the “erosion of our social fabric” and cites numerous problems associated with prostitution.

Excerpt 20 (SSLR Meeting 20, April 1, 2005: 36)

You are absolutely right, Ms. McKay [Executive Director, North End Community Renewal]. It is clear that when we talk about prostitution we are talking about the erosion of our social fabric, about poverty, housing problems, a host of problems that we are all aware of.

Using more subtle structures, this excerpt also serves to exclude prostitutes from the community. Unlike Hanger who focused attention on drug pushers, Brunelle directly correlates prostitution with the ‘erosion’ of the social fabric. Often discussed within the metaphor of the ‘social fabric’, society and communities are portrayed as being eroded by the presence of prostitution. What is depicted in both Excerpts 19 and 20, is the idea that prostitution itself is the cause of, or connected with, poverty, homelessness, child abuse, drug dealing and crime. Prostitutes, within these excerpts, are constructed as “villain[s]...who could undermine the health of the nation both directly and indirectly” (Smart, 1992: 28). By portraying the community as the innocent victims of the threat of prostitution and the subsequent erosion of the social fabric, prostitutes are easily dismissed and excluded from ‘the community’. This exclusion from the community is demonstrated by Brunelle’s use of the word *our* when describing the social fabric, rather than saying ‘*the*’ social fabric, as Hanger does,²⁰ which indicates that it belongs to a specific group, as opposed to belonging to all peoples.

Conclusion

²⁰ In excerpt 19 line 3, Hanger states: “...destroying *the* fibre of *the* community.”

It is evident that all members of the SSLR agree that the current situation is not effective for either prostitutes or the communities in which they work. Commencing from this similar standpoint, that the current situation is ineffective, disagreement with respect to the goal of the laws, the attribution of responsibility for the victimization of sex workers, the polarization between survival sex and freely chosen sex and the impacts of the sex industry on the community affect the policy changes that are perceived to be needed. With respect to the first clause of the SSLR mandate, to review solicitation laws in order to improve the safety of prostitutes and communities, it appears from SSLR transcripts that much attention was given to the negative impacts prostitution is perceived to have on communities. Discussions surrounding the safety of prostitutes shifted to discussions of the role that current laws play in the victimization and exploitation of prostitutes, as well as the difference between voluntary and involuntary prostitution.

What emerges from this discussion is the shift from governing through individuals (i.e. sex trade workers) towards governing through communities. The ‘community’ thus emerges as a collective entity of people, particularly non-prostitute women and children, through which prostitution can be made governable. Issues are now problematized “*in terms of* features of communities and their strengths, cultures, pathologies” (Rose, 1999: 136). Constituted as a new “spatialization of government,” strategies of governance “address such problems by seeking to *act upon* the dynamics of the communities, enhancing the bonds that link individuals to their community, rebuilding shattered communities and so forth” (Rose, 1999: 136). As was demonstrated in excerpts 16 through 20, prostitution was problematized, and hence rendered governable, through its exclusion from the community.

While prostitutes and prostitute's rights advocates did appear before the SSLR appealing for laws to protect prostitutes as well as for the decriminalization of prostitution, discussion frequently turned to issues of community ramifications if such changes did occur. Such discussions, however, do little more than shift the attention away from the issue at hand, that of protecting current sex trade workers from harm.

By virtue of the SSLR mandate to recommend changes that would specifically address the exploitation of, violence against and safety for sex-trade workers, Chapter V assesses potential legal reform from the perspective of what prostitutes view as the best legislative change. Looking at how decriminalization was conceptualized by SSLR committee members, chapter V documents the shift towards a neo-liberal rationality with decriminalization as an example of neo-liberal technology of governance.

V. “RECOMMENDING CHANGES”

The difficulty in discussing the legal reform of prostitution²¹ is compounded by the diversity and stratification of the experiences found within prostitution. For contemporary feminists, “the sexual commodification of women creates an uneasy tension between a desire to suppress the trade and a desire to free prostitutes from state interference” (Lowman, 1986: 193). Prostitution is simultaneously constructed as a patriarchal system of sexual stratification as it is seen as the ultimate form of men’s exploitation against women (Lowman, 1986; Kesler, 2002; Mackinnon & Dworkin, 1997; Pateman, 1988), as well as a means to resist patriarchy, asserting an individual’s right over the sovereignty of their own body (Lowman, 1986; Kesler, 2002; McElroy, 1995; Phoenix, 2000). The embodiment of prostitution within this agency/structure debate, however, means that discussions of legal reform are intersected with a plethora of contentious associations such as consent, free will, exploitation and danger. The resolution to this tension “lies in the short term struggle for the prostitute’s civil rights and the long term eradication of the patriarchal structure that is suggested as producing prostitution in the first place” (Lowman, 1986: 193).

Contemporary debates on prostitution are anchored within protectionist discourses that associate prostitution with harm, exploitation and coercion, and promote abolitionism and criminalization of prostitution. The rise of the prostitutes’ rights movement has served as a critical point of divergence from these discourses, and has attempted to legitimate female sexuality by emphasizing associations with free will and “the prostitute’s right to engage in self-proclaimed consensual commercial sex” (Jenness,

²¹ With respect to legal reform, the regulation of prostitution has generally been approached in three ways: criminalization, legalization and decriminalization.

1993: 34). With respect to the goal of the SSLR, to recommend changes to reduce the exploitation of and violence against sex workers, sex workers themselves are their own best advocates (Brock, 1998; Chapkis, 1997; Jenness, 1993; McElroy, 1998). As noted by Chapkis (1997) “sex workers’ concerns must be at the forefront of any revision in this prostitution law” (138). The discussion of policy recommendations in this chapter is situated within the prostitute’s rights framework. The focus of this chapter is on the decriminalization of prostitution, as this is the approach that prostitutes themselves advocate.²²

Addressing potential revisions to prostitution law, this chapter examines the various ways in which the SSLR committee members constructed decriminalization as a potential policy alternative. This chapter begins with a brief overview of the prostitutes’ rights movement as well as with the three common policy alternatives: criminalization, legalization and decriminalization. It then explores how decriminalization was constituted by the SSLR committee members, especially within its problematization as being antithetical to “the good of the community,” a phrase that was frequently used during SSLR proceedings.

Prostitutes’ Rights Movement

Founded in 1973 by Margo St. James, a former sex worker, COYOTE (Call Off Your Old Tired Ethics), was the first autonomous prostitutes’ self-advocacy organization (Chapkis, 1997; Jenness, 1993). Since that time, prostitutes and other sex workers have organized to act as their own advocates, and many advocacy organizations have

²² As the SSLR was specifically mandated to “recommend changes to reduce the exploitation of and violence against sex-trade workers” (SSLR, 2004), it is believed that prostitutes themselves are in the best position to dictate what these changes should be. Thus within this chapter, decriminalization as a policy alternative and the legitimacy afforded to prostitute self-advocacy are the focus.

emerged.²³ The prostitutes' rights movement emphasizes that prostitution is based on the exercise of individual choice, and that prostitution is work and a job like any other.

Examining the evolution of the prostitutes' right movement and how it has contributed to public discourses surrounding prostitution as a social problem or as a crime, Jenness (1993) argues that by

invoking and institutionalizing a vocabulary of sex as work, prostitutes as sex workers, and prostitutes' civil rights as workers, the contemporary prostitutes' rights movement serves to sever the social problem of prostitution from its historical association with crime and illicit sex, and place it firmly in the rhetoric of work, choice, and civil rights (6).

The prostitution as work discourse, as outlined in chapter III, provides an alternative way of understanding prostitution or sex as work generally, one that is defined by the people who work in the industry. Rather than problematizing prostitution through its associations with crime, social disorder and community nuisance, this discourse serves to problematize current governance of prostitution by legitimizing it through its association with work.

With respect to amending current prostitution laws, McElroy (1998) states that "with startling consistency, the prostitutes' rights movement calls for the decriminalization of prostitution" (337-338). Starting from the standpoint that prostitutes provide the most accurate information regarding what it is like to work and live under the current social and legal regime, this call for decriminalization stems from the voices of prostitutes themselves. PIVOT Legal Society (2004) found that "sex trade laws," according to prostitutes, "worsen the already harmful conditions under which sex workers

²³ Some organizations that have emerged in Canada include: Exotic Dancer's Alliance (EDA), Exotic Dancer's Association of Canada (EDAC), Maggie's, Sex Professionals of Canada (SPOC), Sex Trade

live, add to the stigma of their employment and social position, and support the inference that sex workers are less worthy of value than other members of society” (2).

Problematizing laws against prostitution for failing protect sex workers from harm as well as facilitating their stigmatization, is the foundational argument for those advocating for the decriminalization of sex work.

Criminalization and Legalization: Welfarist Policy Options

Characterized by an interventionist mode of governance, welfarism embodies a particular conceptualization of the relationship between the citizen and the state (Rose and Miller, 1992). Under welfarism, the state was responsible for the social and economic security of its citizens (Dean, 1999; Rose and Miller, 1992), enforcing solidarity and “ensuring the rights and liberties of socially responsible citizens and neutralizing the threat of social dangers” (Dean, 1999: 153). Based on a discourse of preventionism, the welfarist state imposed laws and regulations in order to ensure the welfare of its citizens.

Under this mode of governance prostitutes were simultaneously constituted as victims that needed protection in the form of laws, as well as a social danger that needed to be regulated in order to protect the ‘community’. Those beginning from a welfarist or protectionist rationality, view prostitution as intrinsically exploitive and oppressive and as the ultimate degradation of women (Barry, 1984; Mackinnon and Dworkin, 1997; Shrage, 1989), support criminalization and the prohibition of prostitution itself and the parties involved. In Canada, while prostitution itself it not illegal, legislation surrounding

Workers of Canada, Coalition for the Rights of Sex Workers, the Sex Workers Alliance (with regional organizations in Halifax, Niagra, Toronto and Vancouver), and STELLA.

prostitution-related activities is so broad, that prostitution is considered to be criminalized (Brock, 1998).

Legalization, by its imposition of state-controlled regulations, functions as a protectionist policy as it aims to protect citizens from the threat of social harms believed to be caused by prostitution (Brock, 1998; Chapkis, 1997). It does not, however, “serve to protect the rights and interests of sex workers themselves” (Chapkis, 1997: 155), leading to sex workers’ resistance to state imposed regulatory policies. As McElroy (1998) notes, legalization “almost always includes a government record of who is a prostitute-information that is commonly used for other government purposes” (337), such as automatically refusing a prostitute’s entry into a country.²⁴ Referring to the legalized brothels in Nevada, Brock (1998) speaks to the stringent regulation of prostitution.

Women employed in these brothels may leave the brothels infrequently for time off, and may only shop in nearby towns on certain days and during specific hours. The women may work fourteen hour shifts (as no union or labour codes exists for them as a basis for arbitration), during which they service ten to fifteen customers, in whose selection they are allowed no part. They are subject to mandatory medical inspections, and until the AIDS panic, they were not permitted to use condoms for protection against venereal disease. They are photographed and fingerprinted, and this information is kept in police files. In addition, on top of giving a percentage of their earnings to the brothel owner, they must pay for room and board and for the use of linen, and use of personal care facilities ... all of which take a sizeable chunk from their weekly earnings (Brock 1998: 7-8).

Although legalization may provide a safer working environment than criminalization, this institutionalized form of control, where the state acts as the ‘pimp’ through profiteering and regulation, serves to further disengage prostitutes from their work and reduce their autonomy (Brock, 1998; Chapkis, 1997). It also reifies the stigmatization of prostitution,

by maintaining that prostitution is something that must be controlled, contained and regulated and that prostitutes are fundamentally different from other individuals (Boritch, 1997; Sangster, 2001). The sexual character of the prostitute and prostitution is pre-defined, in that its regulation is always one based on morality and protection.

Decriminalization and the Neo-liberal Shift

In contrast to both legalization and criminalization, decriminalization refers to the elimination of all laws against prostitution. This is the approach most favoured by sex worker advocacy groups and sex workers, as “it eliminates state interference into and control of the affairs of the prostitute” (Brock, 1998: 8). Appearing before the SSLR, academics working from this perspective²⁵ maintained that sex work should not be regulated by the state through criminal laws, but rather through current statutes such as provincial labour codes, occupational health and safety codes, landlord and tenant acts and human rights codes. In addition, they pointed to existing criminal legislation that can be used to protect both sex workers and communities,²⁶ highlighting the fact that specific prostitution-related legislation is not only unnecessary, but harmful.

Under neo-liberalism the role of the Canadian state has shifted from

one of moderating market outcomes to one of facilitating and enforcing them, and to relying increasingly on market mechanisms and individuals rather than collective approaches to economic and social problems (Rehnby and McBride, 1997: 44).

²⁴ McElroy refers to the fact that some countries in Europe indicate whether someone is a prostitute on his/her passport, which leads to the individual being automatically refused entry into some countries (1998: 337)

²⁵ Such as Shaver (SSLR Meeting 5: February 7, 2005); Brock (SSLR Meeting 6: February 9, 2005); Lowman (SSLR Meeting 9: February 21, 2005); Parent and Bruckert (SSLR Meeting 11: March 9, 2005); MacDonald and Jeffrey (SSLR Meeting 15: March 21, 2005); and Lewis, Maticka-Tyndale, Shaver and Gillies (SSLR Meeting 27: May 2, 2005).

²⁶ Existing criminal laws that can be used to protect sex workers include: assault (s.265, s.276, s.268); sexual assault (s.271-s.273); harassment (s.264); forcible confinement (s.279.2). Existing criminal laws can also be used to protect the neighbourhoods from public disturbances, loitering and indecent exhibition (s.175).

Under this mode of governance, economic entrepreneurship replaces state-imposed regulation (Rose and Miller, 1992), and individuals are not only guided by entrepreneurial market principles, but must themselves become entrepreneurs (Dean, 1999). The ultimate goal of neo-liberalism is the formalization of transactions in a situation where every action is a market transaction. Adopting the language of choice and individual responsibility, individuals are seen as “active agents seeking to maximize their own advantage” and best able to “make decisions about their own affairs” (Rose and Miller, 1992).

Viewing prostitution as inherently a market transaction, decriminalization as policy alternative is guided by the neo-liberal principle of economic entrepreneurship. By decriminalizing prostitution the state no longer imposes regulatory mechanisms to control prostitution; rather prostitution becomes regulated by market forces, other agencies and issues of supply and demand. The onus of responsibility for the welfare of prostitutes is no longer on the state, but on prostitutes themselves or the businesses that employ them (e.g., brothels, escort agencies, massage parlours). For prostitutes’ rights activists, “prostitutes work primarily in sex businesses so the necessity remains to give them the same protection as other professionals” (Chapkis, 1997: 155). Normalizing the relationship between employers and employees in sex business, as well as between employees in other businesses, is fundamental to decriminalization.

Regulating Prostitution

The question of how to regulate prostitution continues to elicit much debate both academically and politically. Due to the efforts of the prostitutes’ rights movement, decriminalization as a policy option has found its way into Canadian governmental

debates, beginning with the Fraser Committee in 1983. Although the Fraser Committee recommended that solicitation be decriminalized (Brock, 1998; Lowman, 1998, 2005; 'Special Committee', 1985), the 1992 Federal-Provincial-Territorial Working Group did not, concluding:

If legal reforms are to be undertaken, they should only be done within the context of careful planning to avoid the potential disadvantages of decriminalization or regulation. Prominent among these disadvantages is the potential influx of prostitutes and clients if Canada becomes known for liberalized prostitution laws. The Working Group is also concerned that decriminalization or regulation would send a message of endorsement of prostitution when there is much evidence of the victimization of its participants, regardless of legal mode adopted ('Federal-Provincial-Territorial', 1998).

The association of decriminalization with the endorsement of prostitution is frequently cited by radical feminists who advocate for abolitionism. Furthermore, there is inconsistency over the meaning of decriminalization and how it contrasts with legalization. Raymond (2004), for example, contends that "legalization amounts to sanctioning most aspects of the sex industry, including pimps, who are reconstructed as prostitution businessmen and legitimate sexual entrepreneurs," and that redefining sex as work serves to "dignify the sex industry and the male consumers, not the women in it" (1156-1157). Raymond (2004), like most abolitionist feminists, conflate legalization and decriminalization and treat them as similar. Within the SSLR transcripts, it was noted that these terms were often used interchangeably by both Art Hanger and Paule Brunelle, as will be explored.

Constructing Decriminalization

The discourses used to construct decriminalization as a policy option, reflect on the degree of legitimacy given to prostitutes voices and their lived experiences. If

prostitutes are assigned legitimacy and agency of voice, then their demands of decriminalization will be heard, and decriminalization will be constructed as positive policy alternative. While traditional modes of knowledge production have effectively served to exclude and discount experiential knowledge, feminist standpoint theories aim to empower individuals to actively construct their own knowledge. Thus, “the ‘everyday everynight activities’ of women’s lives are at the centre” (Olesen, 2000: 222). This is especially relevant within discussions of prostitution policy reform, as it is prostitutes, and not the elite lawmakers, that live and work under state-imposed regulations.

The importance Libby Davies places on the legitimacy of prostitute’s voices and of their experiences is evident, especially in regards to recommending decriminalization.

Excerpt 21 (SSLR Meeting 21, April 4, 2005: 12-13)

I’ll tell you about the dilemma that I find myself facing. We’ve heard from a number of groups who advocate your [Janice Raymond, Co-Executive Director, Coalition Against Trafficking in Women] position, which seems to be a sort of abolitionist position, and reducing demand for prostitution, and almost mixing decriminalization with legalization, which I have a real problem with. They’re being used interchangeably, and they are different things. I notice that you do that as well.... If people advocate that position—then my concern is that a further criminalizing regime, whether it’s against the sex worker and even the customer, is actually driving this underground. I know that many of the sex workers we’ve heard from across the country, I would say the vast majority of them, have actually called for decriminalization. This is a voice that I don’t think can be ignored. These are affected people speaking out themselves, from their own experience. So I think there’s that issue to factor in. I don’t think that can be ignored.

Davies recognizes the contradictions inherent within discussion of prostitution.²⁷ She highlights what she perceives as the misuse of the terms legalization and decriminalization, as well as exposes the consequences of advocating a regime of

²⁷ Excerpts throughout this thesis demonstrate Davies’ trend of exposing contradictions and limitations with current technologies of prostitution governance. Commencing from the inherent contradiction with laws

criminalization. Throughout the SSLR hearings, Davies' positioning has remained consistent. Her speech transcends issues of prostitution endorsement, morality, perceived effects on children and equivocating adult prostitution with the fragmentation of the 'social fabric'. Her focus has been on problematizing the governance of prostitution and on the SSLR mandate to improve the safety of sex workers and reduce the violence perpetrated against them. For Davies, regardless of whether or not prostitution is considered to be valid employment by the community, the issue remains that people are working as prostitutes, and their actual experiences "can[not] be ignored".

Although Hedy Fry does recognize the plurality of voices within prostitution, including the prostitute's voice, with respect to the idea that it can be freely chosen, a discourse of preventionism underlies her speech. While she is concerned with preventing people from entering into prostitution, she approaches decriminalization as part of a broader holistic approach.

Excerpt 22 (SSLR Meeting 27, May 2, 2005: 34)

I'm very interested in and have heard from very many people about the concept of decriminalizing; however, I'm one of those people who do not believe there is such a thing as a silver bullet. If you were to suggest decriminalizing-and I can understand the merits of it-what are the other pieces you think should be put together as part of a holistic or comprehensive strategy that would address some of the overarching concerns that, say, women in the sex trade face? One would be things like, first and foremost, how you help women not get into the sex trade because they're put into survivor sex, or they're being exploited, or whatever. How can we prevent that? Secondly, if there is a group who chooses to do this and then wishes to leave, do you see holistic strategies as part of a plan for helping them exit, if they choose?

It is apparent from this excerpt that while Fry does acknowledge that "there is a group who choose to do this," she assumes that all prostitutes will eventually want to leave

that criminalize prostitutes (c.f. excerpt 5), the differential between on-street and off-street prostitution (c.f. excerpt 8-9), the focus on child prostitution rather adult prostitution (c.f. excerpt 15).

prostitution, indicating that prostitution is an undesirable thing to do. Fry's main concern, consistent with her other excerpts presented throughout this thesis, is with 'survivor sex' and exploitation, as well as with a holistic approach towards prostitution that would address these issues. Thus for Fry, decriminalization is not a "silver bullet" that would improve all issues associated with prostitution, and any attempt at decriminalization would have to be done in conjunction with other approaches.

John Maloney does not take an explicit stance regarding decriminalization. In excerpt 23, below, he exposes the various standpoints of key stakeholders, such as prostitutes themselves, community members and the police.

Excerpt 23 (SSLR Meeting 24, April 13, 2005: 22-23)

Chief Superintendent Vickers, sex workers and people who work with sex workers tell us the solicitation laws are part of the problem vis-à-vis being exposed to violence and violent behaviour. They have five to ten seconds to make a decision to jump into a car with a client. Neighbourhood groups say if you take away the solicitation law it'll be the wild west. There'll be tons of traffic, with solicitors up and down the street, regular women being accosted, problems with children, and all the safe community problems. The police say if you take away the solicitation law they will have no tools to clamp down on an area and perhaps move people from one area to another. Especially with children, they will have no tools to pick them up and take them to shelters, notwithstanding it's a fairly revolving door. The children go in one door and the shelters really can't keep them-they go out the back door. How do we reconcile those two problems?

Upon examining the rhetoric used in this excerpt, it is evident that Maloney speaks to the different perspectives of the key stakeholders within the issue of prostitution. In doing this, he uses the language most appropriate to the context or group to which he is speaking. For instance, in sentences 1-4, he uses the words 'sex workers', 'work', and 'clients', language from the sex as work discourse. However, when speaking about neighbourhood groups he uses the rhetoric of 'solicitors' and 'regular women', indicating that prostitutes are somehow outside of this purview and are 'irregular'

women. It appears that for Maloney the concern is with accurately portraying how prostitution is constituted by the different parties involved.

Attempting to maintain neutral, Paule Brunelle states that she is “keeping an open mind” with respect to prostitution. This stance of objectivity is markedly different from Brunelle’s initial association with the prostitution *is* violence discourse demonstrated in excerpt 11.

Excerpt 24 (SSLR Meeting 13, March 16, 2005: 83)

I’m keeping an open mind concerning this whole matter of prostitution. As far as safety goes, some prostitutes have told us that they often feel they are in danger because of the solicitation legislation. Actually, they’re so afraid of being arrested that they have to hurry up and choose a client and they do it fast. If we did away with solicitation legislation and went to legalization, do you think that would improve security for the sex trade workers?

Brunelle constructs legalization and decriminalization as being similar. This is evident in line 5, where Brunelle speaks about “doing away with the solicitation legislation,” in the context of what prostitutes have advocated for, and refers to this as being legalization. Focusing on issues of safety and security, Brunelle demonstrates that she is fundamentally concerned with improving the current legal and social situation for prostitutes, and that she sees decriminalization as viable way of doing this.

Art Hanger on the other hand, opposes decriminalization. In contrast with Davies, Fry and Brunelle who focus on the safety of the people working in prostitution, Hanger marginalizes this focus and replaces it with a focus on community rights.

Excerpt 25 (SSLR Meeting 25, April 18, 2005: 38)

As you folks [Laurie Aaron and Stephen Lock, Egale Canada²⁸] were going through your presentation I was thinking of throwing this into the mix of things that we already have to think about when it comes to prostitution and the like. By the time I shake it all up and throw it out on

²⁸ Egale Canada is a national organization working for equality and justice for lesbian, gay, bisexual and trans-identified individuals and their families.

the table like a bunch of dice, there's nothing there, in the sense that every law that deals with sexual abuse or sex in some fashion would be eradicated if we were to look at all the requests and recommendations that are set forward by those presenting their case. This is no exception. You want to see the bawdy house law struck down. I can relay all kinds of reasons why you shouldn't, but this is your presentation and you want it removed. Specifically you want section 159, which deals with anal sex, removed, and you want the indecent acts removed. The question remains, as you pointed out, is this for the common good of the community? I'm talking about the broad community. I have difficulty understanding how that can be for the common good of the community, broadly. It does not make our community of Canada any better by striking down these laws.

This excerpt is consistent with the discussion in Excerpt 19, surrounding Hanger's exclusion of prostitutes from citizenship rights within 'the community'. Associating prostitution with deviance and crime, prostitutes are constituted as being outside of the purview of the 'good' people of society,²⁹ and not deserving of legitimization. Within excerpt 25 Hanger refers to the "common good of the community," and questions whether the removal of laws regulating sexual abuse and sex in general are for the 'common good'.

Conflating the issues of adult prostitution and adult sexuality with issues surrounding the morality of sexuality and the 'common good', Art Hanger's statement serves to minimize and deflect the issue being debated, that of safety and the reduction of violence, as per the SSLR mandate. Responding to representatives of Egale Canada, Hanger further problematizes the issue of decriminalizing anal sex and public indecency, by associating it with 'sexual abuse'. Hanger not only excludes prostitutes from the community, but also excludes those who he perceives as sexually 'deviant', or sexually unregulated. The rights of the gay, lesbian and transgendered communities are

²⁹ cf. excerpt 36

diminished, as Hanger questions whether repealing s.159 of the *Criminal Code*, would “make the community of Canada any better.”

Conclusion

Although the SSLR has yet to, and may not, release its final report,³⁰ conflicting perceptions of decriminalization as a policy recommendation are evident. While Davies, Fry, Brunelle and Maloney all align themselves within different conceptualization of prostitution, they are able to take into account the multiplicity of voices and debates inherent within these conceptualizations. On the other hand, Hanger’s position is noticeably different from other committee members, in that he is always fundamentally concerned with the rights and safety of ‘the community’ from which prostitutes are excluded. This position is antithetical to that advocated by prostitutes’ rights organizations. The Canadian HIV/AIDS Legal Network (2005a) contends that “community safety cannot legitimately be defined as distinct from the health and safety of sex workers, as sex workers are part of Canadian society and communities with the same entitlements to human rights as all others” (ii).

As mentioned at the outset of this chapter, prostitute rights advocates assert that prostitutes are best able to accurately portray what it is like to work and live under the current quasi-criminalized regime. While sex workers did appear before the SSLR, their demands for safer working conditions and equality were frequently overshadowed by concerns for the rights of the ‘community’, encompassing children, non-prostitute women and the ‘common good’. By the same token, associations of prostitution to ‘choice’ and

³⁰ The SSLR prorogued all committee business due to the 2006 Federal election. All five SSLR committee members were re-elected to their specific electoral districts. No information is available regarding whether or not the SSLR will continue and release its final recommendations, however, Libby Davies is

‘work’ were superseded by associations with ‘force’ and ‘victims’. By appearing before the SSLR, prostitutes challenged current technologies of governance and rationalities of rule by attempting to incorporate new discourses of prostitution into the policy arena. For Sangster (2001), women’s confrontations with the law “shed light on whether, and how, legal reforms facilitate or hinder women’s ability to confront oppression, thus, addressing issues of public power and the state, as well as private lives and subjectivities” (3).

The inclusion of sex workers voices within the SSLR was evident. It is how they are constructed within discussions of policy recommendations that is of fundamental concern. Analysis of discourse should, according to Smith (1999) “include how actual people take them up, the practices and courses of actions ordered by them, and how they coordinate the activities of one with those of another or others” (158). Thus any discussions of prostitution policy legal reform should be done in collaboration with the people living and working under these policies.

campaigning for the reinstatement of the SSLR by inviting letters from persons who appeared before the SSLR.

VI. PROSTITUTION AS DISCURSIVE PRACTICE

Undertaking a discourse analysis of the ways in which the SSLR committee members problematized prostitution is, theoretically and methodologically, a matter of interpretation, and a matter of multiple interpretations. Discourse analysis is a complex task of deconstructing and interpreting words, statements and problems recurrent across texts, to identify systems of meaning, knowing and categorizing the social (Wood and Kroger (2000). As a researcher, I am interpreting the various ways that the SSLR committee members spoke about and conceptualized the issue of prostitution, and sorting these through the filters of my own social location and analytic perspective. Analysis is inherently an interpretive act, and analysts, according to Fairclough (1992) should “seek to be sensitive to their own interpretive tendencies and social reasons for them” (35).

As discussed at the outset of this thesis, I align myself within the sex as work discourse, understanding sex work as a mutual and voluntary exchange of sexual services for money or other consideration (Brock, 1998). Boritch (1997) argues that “although the exchange of sexual services for economic gain is intrinsic to the construction of gender roles in patriarchal societies, the prostitute is viewed as entirely distinct from other women” (93). While not to devalue the work that prostitute’s do, Boritch (1997) alludes to the idea that the exchange of sex for money is not an act specific to prostitutes as some non-prostitute women also engage in such economic exchanges (e.g., women who marry for money). Sexual exchanges do not only occur for economic gains, they also take place in non-commercial settings for emotional and social gains.³¹ While I have never worked

³¹ By non-commercial sexual exchanges I am referring to instances, for example, when one person engages in sexual relations with another person in the hope that ‘they will love them’ (emotional exchange), or when a person engages in sexual relations with another person out of an informal sense of obligation, such as after being bought drinks at a bar (social exchange).

as a sex worker, I am aware of, and have engaged in, such exchanges of sexual services outside of the commercial realm. These exchanges, however, are seen as outside of the purview of prostitution, even though the act and the action are the same. This dialectical relationship between commercial and non-commercial sexual exchanges forms the basis of the legal regulation of prostitution. Governed by the *Criminal Code of Canada*, commercial sexual relations are constructed as inherently deviant acts while the latter are constituted as part of everyday social interaction. The differential regulation of sexual activity has stimulated my interest in sex work as a research area and sex as work as my analytic standpoint.

The goal of this chapter is two-fold. First, to briefly summarize how the findings of this research corroborate my research statement: that the manner in which prostitution (and consequently 'the prostitute'), is made governable through associating it, or encompassing it within different discourses, aligns itself with the shift from welfarism to neo-liberalism. This will be done by situating my research results within the prostitution discourses outlined in chapter III. According to Teo (2000), once a discourse analysis has been completed, the next and more significant question that needs to be addressed is: "Why has this discourse come to be constituted this way?" or "What makes this discourse possible?"(40). In this regard, the second goal of this chapter is to situate the prostitution discourses used by the members of the SSLR within broader social theorizing of prostitution as unregulated female sexuality, by embedding prostitution within legal (laws against prostitution) and social (the discourse of the 'good sexual citizen') contexts. This chapter will then conclude with a discussion of the research contributions of this study as well as with directions for future research in this area.

Continuity and Variability in Prostitution Discourses

The purpose of this thesis was to examine the ways in which the SSLR committee members discursively constructed prostitution throughout committee meetings, in order to assess the continuity of discourses across the four Canadian governmental subcommittees enacted to address the prostitution ‘problem’. SSLR transcripts were analyzed with respect to the specific mandate of the SSLR-- to “review solicitation laws in order to improve the safety of sex-trade workers and communities overall” and to recommend changes to “reduce the exploitation of and violence against sex-trade workers” (Subcommittee on Solicitation Laws, 2004). Throughout the course of analyzing the SSLR transcripts I discovered that the discourses used by the SSLR committee members relied upon existing discourses and understandings of prostitution. While the SSLR was legislated to specifically address violence and safety issues for sex workers, discourses problematizing female sexuality and exclusion from the ‘community’ are reflective of welfarist or protectionist rationality that have historically triggered much of the prostitution debate.

Similar to the textual claims made by the Badgley and Fraser Committees and the Federal-Provincial-Territorial Working Group, I found that the discourses used by the SSLR paralleled the discourses to which these previous committees adhered. The SSLR problematized prostitution as did the previous three committees, by paying much attention to the association of prostitution with child prostitution, the perceived effects of prostitution on youth and non-prostitute women, the distinction between forced and voluntary prostitution, and the association of prostitution with societal decay. Only one

SSLR committee member, Libby Davies, consistently brought the focus of the discussion back to the legislated mandate of the SSLR.

Patterns in SSLR Committee Member Speech

Patterns within the speech of particular SSLR members also became evident throughout the process of reading and analyzing SSLR meeting transcripts. These patterns can be placed along a continuum, with protectionist rationalities on one end, and free-market rationalities, on the other. The purpose of placing the speech patterns of the SSLR committee members along a continuum is not to make a claim about which discourses are ‘right’ and which are ‘wrong’. Rather, as Phillips and Jørgensen (2004) state, the discourse analyst has to sort through “what was actually said or written, exploring patterns in and across the statements and identifying the social consequences of different discursive representations of reality” (21). Thus placing the discourses along a continuum represents the most appropriate way to highlight the continuity and variability of discourses used.

Art Hanger was the only SSLR committee member that was opposed to decriminalization. Maintaining that prostitution is a crime, and that it is linked to other crimes, decriminalization, for Hanger, would be tantamount to endorsing criminal behaviour. Relying on discourses of societal exclusion, Hanger denied the legitimacy of prostitute’s voices, by referring to them as ‘girls’ and prostitution as an ‘activity’. Similar to the Badgley Committee’s claim that juvenile prostitutes brought “harm upon themselves” (‘Committee on Sexual Offences’, 1984: 1046), Hanger responsibilized prostitutes for the victimization they experienced while engaging in prostitution. Advocating for increased state intervention by virtue of governing prostitution via

criminal laws and strict law enforcement, Hanger's discourse is guided by a welfarist rationality that aims to protect 'citizens' from prostitution. Evidenced in excerpts 13 and 19, according to Hanger, the majority of prostitutes entered into prostitution, or were forced into prostitution by pimps or drug pushers, due to their drug addiction. In this sense, it appears that Hanger believes that prostitute's can be 'saved' or protected by criminally regulating the 'criminal element'. Prostitution, in this instance is constructed as a "social danger," in which technologies of governance are needed to "reform moral character by confining and regulating the person of the transgressor: the criminal, the lunatic, the workshy, the alcoholic, [or] the vagrant" (Rose, 1999: 104).

Libby Davies, on the other hand, represents the opposite end of the continuum, constituting prostitution as legitimate work that should be governed via the market and other agencies, as opposed to the state. Commencing from the perspective that the status quo is not working, Davies' fundamental concern was with the harmful effects and ineffectual nature of current laws regulating prostitution. For Davies, the concern was not with constituting prostitution as problematic, the concern was with the current legal, social and political environment in which prostitution occurs and with the problematization of previous forms of prostitution governance. Noting the various contradictions within prostitution laws, namely that they are only concerned with the visibility of prostitution, not prostitution itself, and that current laws serve to criminalize people that it treats as victims, Davies defended the legitimacy of prostitute's voices and their demands to be seen as workers.

Occupying the centre position of the continuum, John Maloney, maintained a neutral stance throughout SSLR proceedings. It is evident throughout Maloney's speech,

that he was interested in constructing prostitution via the standpoint of the speaker, whether it was a police officer or a prostitute, and his questions frequently used the language inherent to the particular standpoint of who he was speaking to.

Paule Brunelle and Hedy Fry are both positioned between John Maloney and Libby Davies, along the continuum. While they both acknowledged the merits of decriminalization, their speech was generally not framed within the sex as work discourse. Undergoing a shift in discourse usage, Paule Brunelle initially associated prostitution with an act of violence against women (excerpt 11). While she maintained this position throughout SSLR meetings, near the end of SSLR proceedings, Brunelle stated that she wanted to “keep an open mind concerning prostitution” (excerpt 24). Paule Brunelle supported decriminalization insofar as it is the best means to stop the cycle of violence against women generally, excluding prostitutes. Fundamentally concerned with violence against women, Brunelle frequently questioned the correlation between violence and prostitution, and if prostitution could reduce the violence perpetrated against women. While it appeared that Brunelle did not view prostitution as a legitimate profession, her concern with the victimization of women was evident throughout SSLR committee proceedings.

Similar to the recommendation proposed by the Fraser Committee, to address the underlying causal factors that lead to prostitution (‘Special Committee’, 1985), Hedy Fry proposed a more holistic approach to prostitution based on preventionism and harm reduction. In addition to focusing on prevention, Fry was concerned with effects of prostitution on children as well as with child prostitutes. A similar trend was also found within the Fraser Committee and the Federal-Provincial-Territorial Working Group. This

focus, on children rather than adults, serves to disavow the rights of adult sex workers, as well as further minimize their voices, giving preference to the rights of the child, those members of 'the community' with no political voice, over the rights of the prostitute. With respect to adult prostitution, Fry's speech relied upon the distinction between forced (survival sex) and voluntary sex work, whereby forced sex workers were deemed as needing the most protection. While there was much variability within Fry's speech and the discourses she relied upon, like Davies, she recognized the need to acknowledge the voices of the women working in prostitution.

As was demonstrated throughout this thesis, consistency and variability in discourse usage and intertextuality between historical and current discourse usage dictates that no particular discourse was adhered to at all times by SSLR committee members. These patterns, however, allowed me to identify key discourses used by particular committee members, as well as how they correspond to existing discourses of prostitution.

Regulating Sexuality: Theorizing Prostitution Discourses

For Fairclough (1992) discourse analysis attends to both the *discursive* or textual practice that constructs discourses and its constitutive social practices. Fairclough's (1992) three-dimensional view of discourse, which focuses on the processes of text production, distribution and consumption, are all inherently social processes and "require reference to the particular economic, political and institutional settings within which discourse is generated" (Fairclough, 1992: 71). In order to address the social processes which gave rise to the discourses of prostitution used by the SSLR committee members these discourses need to be situated in terms of broader theorizing of sexual regulation.

Norms regulating ‘appropriate’ female sexuality suffuse all discussions on prostitution and well as the discourses used to embody prostitution in order to make it governable. The prostitution discourses subscribed to by the SSLR committee members closely resemble those that have previously been used by the Badgley and Fraser Committee, and the Working Group, which as has been demonstrated speak towards welfarist rationality that is protectionist and moralist in tone. While Libby Davies challenged existing problematizations of prostitution as being exploitative, criminal or a societal nuisance, the speech of the other committee members, to varying degrees, confirmed that exclusionary and stigmatizing discourses are still central in governmental policy proceedings. Given the discourses that have been used throughout this thesis, it appears that the intersection of laws (as social practice) and discourses of ‘good sexual citizens’ (as a social process of exclusion) underlie much of the debate and serve to make regulable unregulated female sexuality.

Law as Regulating Truth

The history of the regulation of prostitution exposes that the law is more than a set of objective rules and practices. The regulation of prostitution is intimately linked with the regulation of gender, whereby women’s sexuality is viewed as sinful by nature (Sangster, 2001; Sanchez, 2001). For Sanchez (2001), prostitution laws function as a form of spatial regulation, using “spatial strategies of exclusion and containment to ‘cover’ feminine sexuality and to protect women against sexual exploitation, not by regulating men’s conduct but removing [women] from public view” (63). By doing this, the law serves to define prostitutes as legal subjects and place prostitution within the realm of discourses of crime and other agencies of government. Regulating women’s

bodies, the law “represents not one monolithic text by a complex of institution, codes, practices and personnel designed to govern, control and aid women” (Sangster, 2001: 2). The word ‘prostitute’ as defined by the law, “always already confirms associations between class, immorality and disease and the need for police and public health intervention (Smart, 1992: 31).

A prevalent legitimating myth of law is that it is neutral and objective, and that it exists outside of the social context (Brock, 1998). Smart (1995) contends that “law is a particularly powerful discourse because of its claim to truth which in turn enables it to silence women (who encounter law) and feminists (who challenge law)” (71). It is because of this myth, that law and legal discourses can be used to construct, or mediate,³² identities and define these identities as truthful constructions rather than as representations. In actuality there is no such thing as *prostitution* or *the prostitute* as “‘the prostitute’ is an invention of policy makers, researchers, moral crusaders and political activists” (Chapkis, 1997: 211). For Pheterson (1990), “the category of ‘the prostitute’ is based more upon symbolic and legal representations...then upon a set of characteristics within a population of persons” (398). However, the truth that law mediates is that prostitutes and prostitution are inherently criminogenic and that they should be regulated via criminal laws. Regulated as a crime by the *Criminal Code of Canada*, prostitution is always bound to discourses of the criminal, such as drug use, organized crime, violence and punishment. The SSLR committee members were not only constituting or creating discourses of prostitution, but as Fairclough (1992) notes,

³² I use the term *mediate*, following from Dorothy Smith (1999, 1990), to refer to the various ways texts are able to frame issues and establish concepts and terms for that issue. The concept of *textual mediation* is intimately linked to the *ruling relations*, as texts “presuppose an organization of power” and produce “a

their discourses were already pre-defined by the social context and constituted by other social practices.

While both Libby Davies and Hedy Fry attempted to move prostitution from the legal domain into the social and medical domains, respectively, Fry's speech was still imbued with notions of criminality. Overall, associations of prostitution with organized crime, drug use, public nuisances, violence and exploitation, threatening community values and eroding the social structure were intertwined within SSLR committee member speech dealing with current solicitation laws and policy recommendations. The discourses that were used by the SSLR committee members were constituted within the constraints of the law, and the truth that current laws presuppose.

By being attached first and foremost to the *Criminal Code of Canada*, criminality will always constitute the referent in discussions about prostitution. Laws regulating prostitution-related activities not only seek to regulate prostitution and the unregulated sexuality of prostitute women, they informally regulate and interrogate every female body. Governing through morally charged discourses of 'good' (regulated) and 'bad' (unregulated) female sexuality, women guard their 'good' reputation through honest labour and by embracing middle-class, heterosexual, female attributes (Sangster, 2001).

Furthermore, by carrying a message to all women that prostitution is inherently criminogenic, laws regulating prostitution also cause an unavoidable issue for the women's movement. In this respect, Smart (1995) states that solicitation laws,

make it impossible for the women's movement to absorb prostitution into the wider campaigns on women's poverty, equal pay, day care facilities and so on because the criminal law makes prostitute women into a special category which constantly calls for the attention of a single issue campaign

version of the world that is peculiarly one-sided, that is known only from within the modes of ruling, and that defines the objects of its power" (Smith, 1990: 83-84).

(that is, to end imprisonment, to decriminalize, to resist brothels) (Smart, 1995: 67).

This is evident within the SSLR as it was enacted to review and recommend changes to existing solicitation laws. While many sex workers, researchers and advocates attempted to move prostitution into wider campaigns of labour and women's issues, discussions were tempered by discourses of exploitation and criminality brought on by the SSLR committee members. As previously noted, Libby Davies was the only SSLR committee member that consistently focused on problematizing current solicitation laws as harmful and ineffective (excerpts 5, 9) and maintained that the voices of prostitutes should be taken into account (excerpt 21). Hedy Fry, concerned with the association of adult prostitution with juvenile prostitution (excerpts 12, 17), called this association as "exploitation at its worst" (excerpt 17). This discourse, however, is not only detrimental to the prostitute's rights movement which advocates for prostitution to be seen as work, it also maintains the current positioning of prostitution within the *Criminal Code*. Being regulated by the *Criminal Code of Canada* not only limits the discourses by which prostitution can be spoken about, but serves as the focal point for the exclusion of prostitutes from 'the community'.

The "Good Sexual Citizen" as an Exclusionary Discourse

By constituting prostitution-related activities as criminal, the law serves to exclude 'the prostitute' from 'the community'. In constructing the prostitute identity and imposing that identity upon some women, Sanchez (2001) argues that:

The law simultaneously limits women's citizenship rights and withdraws its protection. Prostitutes are "out of place" in two senses of the word. First, as "known prostitutes," they have no legitimate place in the law. Second, the law displaces these women spatially. This displacement takes the form not just through the criminalization of specific acts of

prostitution, but through laws that criminalize conduct prior to any actual sexual interactions (e.g. solicitation, procurement and loitering). (64).

Although prostitution per se is not illegal in Canada, its positioning within the *Criminal Code of Canada* serves to impose a criminal identity on those who work as prostitutes.

Laws and policies regulating sex are guided by a norm of the 'good sexual citizen'. The 'good sexual citizen' according to Seidman (2005) is an individual "whose sexual behaviour conforms to traditional gender norms, who links sex to intimacy, love, monogamy, and preferably marriage, and who restricts sex to private acts that exhibit romantic or caring qualities" (237). The criminalization of certain sexual acts, identities or intimate arrangements creates a sexual hierarchy in society, whereby some identities and sexual acts are tolerated or barely tolerated and others are deemed so intolerable that those who engage in them are seen as immoral and dangerous to society (Seidman, 2005: 225). This hierarchical ordering of the social is "foundational to the relations of ruling" (Smith, 1990: 84), as it enables power to simultaneously be ascribed to individuals within the apparatus of ruling, and exerted over individuals who are not (Smith, 1990).

Prostitutes are excluded from the law-abiding members of society by virtue of being regulated by criminal laws. By being placed outside the purview of the 'good sexual citizen', they are also excluded from 'the community'.

Discourses of citizenship³³ and inclusion into the community were frequently referred to by the SSLR, particularly by Art Hanger. Following from the legal 'truth' that prostitutes are criminals, Hanger excludes prostitutes from the 'good people of the community', indicating that they do not have a right to be heard (excerpt 19) and rejects the idea that removal of laws regulating sex is for the 'common good' (excerpt 25).

³³ I use the word citizenship here to refer to the inclusion or exclusion within a community.

These exclusionary discourses were also used by Paule Brunelle and Hedy Fry. Brunelle refers to prostitution as the ‘erosion of the social fabric’ (excerpt 20), and depicts prostitution as endangering the rights of citizens (excerpt 16). Fry, citing the community groups who appeared before the SSLR, describes how condoms and needles were littering *their* community (excerpt 18), indicating that prostitutes are located outside of the communities in which they work.

Constructed as sexually deviant and as criminals, prostitutes are excluded from the ‘community’. As a result they are denied rights as well as the protections offered by the inclusion within the community regime. Smart (1995) contends that we cannot neglect the fact that “as legal subjects, women defined as prostitutes have fewer rights and are less adequately protected by (and from) the law than other women” (67). By virtue of being engaged in prostitution, Hanger responsabilizes prostitutes for their own victimization (excerpt 3), indicating that he did not see a correlation between current solicitation laws and the deaths of female prostitutes in British Columbia. Fry, on the other hand, extends citizenship protection to what she describes as ‘survival sex-trade workers’ but not to those women who voluntarily chose to enter into prostitution (excerpt 7).

While the use of citizenship as a mechanism of exclusion may be subtle, the distinction of a boundary between ‘the community’ and ‘the prostitutes’ was evident throughout SSLR committee proceedings. As a result of being labeled criminals, prostitutes are denied full access into the citizenship regime. For Dobrowolsky and Jenson (2004), “the strategic choice of a name not only opens the space for making some claims but shuts out others. It identif[ies] the community of interest, and [limits] the

range of actors involved, clos[ing] the door to certain groups” (173). In this respect, the label of ‘criminal’ must be eradicated before laws regulating prostitution can be altered, and before prostitution can be associated with legitimate employment.

Research Contributions

The findings of this study have important implications for socio-legal discussions of sex work policy. As discussed in chapter I, little research exists regarding the analysis of discourses used throughout governmental policy proceedings related to prostitution. With respect to the previous three Canadian governmental committees, no such study has been conducted.³⁴ This study fills this gap, by examining the discourses used by the SSLR committee members throughout committee proceedings as well as their relationship with the discourses used by the three previous prostitution-related governmental committees.

Uncovering the discourses used in prostitution policy debates, facilitates understanding and awareness of power differentials as “relationships between discursive, social and cultural change are typically not transparent for the people involved” (Fairclough, 1992:9). It also provides resources for those who may be disadvantaged by these discourses (Fairclough, 1992; Smith, 1999). In this respect, this study makes visible the processes by which sex workers lives are governed. It provides information as to the dominant prostitution discourses that are used by the government and that inform policy making. This information will allow sex workers, academic researchers and

³⁴ The reader should note that studies have been done that discursively analyze the final reports of both the Badgley and Fraser Committee, rather than committee proceedings. Many of these studies can be found in Lowman, J.; Jackson, M.A.; Palys, T.S. and S. Gavigan (Eds.) (1986). *Regulating Sex: An Anthology of Commentaries on the Findings and Recommendations of the Badgley and Fraser Reports*. Burnaby, B.C.: School of Criminology, Simon Fraser University.

advocates to develop new ways of challenging the underlying assumptions of dominant discourses.

Limitations

While this study contributes to sex worker rights advocacy as well as to current literature, there are also some limitations. Focusing solely on the speech of the SSLR committee members, this study only minimally took into account the speech of the witnesses appearing before the SSLR. While I have attempted to contextualize the text of the five SSLR committee members within their respective committee meetings, the reader nonetheless has a limited account of the information that was presented before the Committee. As stated in chapter II, the decision to focus exclusively on the text of the SSLR committee members was due in part to space and time constraints, as well as to the fact that it was the SSLR committee members themselves that would be recommending legislative changes. Thus their interpretation of the SSLR committee proceedings was of great importance in the broader understanding of the associations used to problematize prostitution in order to make it governable.

A second limitation of this study concerns Fairclough's (1992) methodology of discourse analysis. The aim of this methodology is to explore the link between language use and social practice (Fairclough, 1992; Phillips and Jørgensen, 2004), focusing on the role that discourses play in maintaining the social order. Thus as has been explained previously, Fairclough (1992) sees the relationship between discourse and social structures as dialectical--each constructing and defining the other. However in doing so, the theoretical distinction between the discursive and non-discursive remains unclear. For Phillips and Jørgensen (2004) questions arise from Fairclough's theory such

as: “How can we demonstrate empirically that something is in a dialectical relationship with something else?” And “how can one show exactly *where* and *how* the non-discursive moments influence and change the discursive moment-and vice versa?” (89)

The main critique of Fairclough’s approach then, is that presupposing that discourse and social structures are dependent leaves “little space for the possibility that the struggle is not yet over and that the discursive practices can still work to change the social order” (Phillips and Jørgensen, 2004: 89). This is in spite of Fairclough’s insistence that discourse leads to social change and can shape the social world.

I have attempted to minimize this limitation by including a discussion of the prostitute’s rights movements and how they have redefined the problematization of prostitution by focusing on the problematic of governance as opposed to the problematic of unregulated sexuality. Furthermore, contextualizing particular prostitution discourses within theories of law and ‘good’ sexual citizenship facilitates understanding of how these discourses can be changed by rearticulating discursive boundaries and embodiments. My reliance on these two theories, however, does not indicate that they have an implicit truth value. Rather, their claim to truth is contingent upon societal acceptance of the validity of the truth that laws and exclusionary regimes claim. Validity with respect to discourse analysis is not contingent upon whether analyses are ‘true,’ that is, that “they correspond to an independent world” (Wood and Kroger, 2000: 167). It is based upon representations that are “effective, effectual and cogent” (Wood and Kroger, 2000: 167) and that are able to reproduce other discourses.

Future Research Directions

Discourse analysis was an effective method for revealing the associations used by the SSLR committee members to problematize prostitution, as well as how these associations are linked to dominant political rationalities. This knowledge, however, is not sufficient for remedying social and legal discrimination against prostitutes and prostitution. It cannot simply be used to guide the re-writing of prostitution laws in order to eliminate problematic discourses; to do so would be to ignore the underlying issues. It is not only important to recognize the discourses being used by governmental committees, but to understand why and how these discourses are perpetuated throughout society. This knowledge is important, particularly when many sex worker rights organizations, researchers and other allies have been lobbying for decriminalization. Future research would benefit from a participatory action research approach, combining the expertise of academic researchers, sex workers and their allies, in an attempt to understand and change these problematic associations. To begin to change this discourse discrimination, that is, attending to how current discourses perpetuate harm against and stigmatize prostitutes, to emancipate prostitutes, a macro-level analysis of social, political and economic factors needs to be undertaken. Beyond this, new discourses of prostitution need to be disseminated throughout society, as positive legal change will not occur until the dominant discourses change.

The sex worker identity also needs to be redefined. More so than other individuals, a sex worker's identity is intimately linked to her (or his) work (Boritch, 1997; Brock, 1998; Sanchez, 2001). Boritch (1997) argues that:

For a woman, involvement in prostitution defines her as a person, while the man or "john" or "trick" who frequents prostitutes is not perceived as essentially different from other men or as defined by the purchase of sex.

Whatever else she may be, a woman who sells her body is first and foremost, and at all times, a prostitute (Boritch, 1997: 90).

While it is recognized that identity is linked to one's work, or occupation, and that this link is further translated into inclusion or exclusion³⁵ within 'the community', by virtue of being a form of criminally stigmatized labour, the sex worker will always be considered 'criminal' or deviant, until their identity is disassociated from their work. Research conducted on sex work focuses more attention on the sex work itself as opposed to the person doing it. This not only serves to define a person solely by the work they do, but it also excludes sex workers from mainstream society by focusing exclusively on their socially deviant occupation. Appearing before the SSLR, Kate Gibson, Director of WISH Drop-In Centre, stated that "putting a human face to [sex workers] is a really important thing," and that it would help "to alleviate a lot of the stigma" (SSLR Meeting 17, March 29, 2005: 55). Until members of society are able to look beyond what sex workers do, exchange sexual services for money, and focus on the rights and well-being of the workers themselves as people, sex workers will continue to be stigmatized. In this regard, the role of future researchers should be to 'put a human face' on sex workers and to show their similarities with other community members, rather than emphasizing their differences.

Finally, future research should aim to explore the various ways that a sex worker's work may have an effect on his or her everyday life. This follows from Smith (1991) who insists that social science research begin with the people it intends to study, "exploring [society] together... and piecing together an account...that expands our grasp of how our experience and activity are anchored in, shaped by and part of the extended

³⁵ Other workers that are excluded from 'the community' include migrant workers and nannies.

social relations that are powered by and overpower our lives” (167). Research focusing on questions other than the act of exchanging sex for money is needed. As Agustin (2005) notes:

In terms of the struggles to “help” people selling sex, we would do well to stop obsessing about *them* and the “commercial moment”-the exchange of money for sex-and instead divert our gaze to a multitude of other questions: the market for their services, what happens besides sex at sex industry sites, concepts of sexuality that condemn those assumed to find “love” irrelevant, the presupposition that the client has all the power, the assumption that money contaminates sex, the surmise that vendors of sex cannot enjoy the sex they provide, the growing demand among women to purchase sexual services and the presumption-this above all, by Western feminists-that sex *matters* so much that its imperfection can damage a person’s essence. (Agustin, 2005: 80).

Many of Agustin’s (2005) recommendations speak directly to my first research recommendation--to understand why and how these discourses are perpetrated and to look at the underlying discursive assumptions.

Prostitution although commonly referred to as the ‘world’s oldest profession’, has never been ‘professionalized’ or acknowledged as such except by those espousing the sex as work discourse. If prostitution is the world’s oldest profession, then it follows that the policing and regulation of prostitution is the world’s oldest concern. It is evident that abolitionist reforms that seek to punish and heavily regulate sex work continue to place sex workers in dangerous working situations, serve to entrench their stigmatization and marginalization from other members of society and do not work (Benoit and Millar, 2000; Brock, 1998; Canadian HIV/AIDS Legal Network, 2005a; Davis and Schaffer, 1994; Lewis et al., 2005; Lowman, 2005; PIVOT Legal Society, 2004). The best solution is to accept the existence of commercial sex and seek to improve the lives and working situations of both prostitutes and their clients. Decriminalization is the only policy option

that acknowledges this reality and that actively seeks to ensure that prostitutes would gain access to the protections afforded to every other worker and member of society. In Canada, four committees have been enacted to address the prostitution 'problem'. The only 'problem', it appears, is that the rights of sex workers are consistently overshadowed by concerns for the 'erosion of the social fabric', the 'good of the broader community' and a concern for unregulated female sexuality. Until sex workers are considered as members of the community, the discourses used to represent them by governmental committees, the government generally, and the public, will continue to be exclusionary and recommendations for decriminalization will not be heeded. This was demonstrated previously by the 1983 Fraser Committee, whose recommendations for the decriminalization of prostitution, were ignored by the government of the day.

APPENDICIES

APPENDIX A

Members of the Subcommittee on Solicitation Laws

Members of the Subcommittee on Solicitation Laws

The House of Commons Subcommittee on Solicitation Laws consists of five members representative of the major political parties in Canada. These members include:

John Maloney (Chair)

John Maloney has been a member of the Canadian House of Commons since 1993, and currently represents the riding of Welland for the Liberal Party. He was first elected to parliament in the 1993 federal election, winning a convincing victory over his Reform and Progressive Conservative opponents in the riding of Erie. Maloney served as parliamentary secretary to Canada's Attorney General from 1999 to 2001, and currently serves as the Chair to the Subcommittee on Solicitation Laws. Before beginning a career in politics, John Maloney was a practicing lawyer.

Libby Davies (Vice-Chair)

Libby Davies is a Canadian Member of Parliament for the New Democratic Party, representing the riding of Vancouver East in Vancouver, British Columbia. Before being elected to Parliament, she participated in many grass-roots political organizations in Vancouver, specifically in the Downtown Eastside area. She was elected to the Vancouver City Council in 1982 and re-elected in 1984, 1986, 1988, and 1990. She was first elected to parliament in 1997 and re-elected in 2000 and 2004. For the federal NDP she is currently both the House Leader and the spokesperson for Housing and Homelessness and Multiculturalism. In Parliament she has been a strong supporter of drug policy reform, specifically to halt the criminalization of drug users. She currently serves as the Vice-Chair for the Subcommittee on Solicitation Laws.

Art Hanger

Art Hanger is a member of the Conservative Party of Canada in the Canadian House of Commons, representing the riding of Calgary Northeast since 1993. Hanger is a former police officer for the Calgary Police Force. Art Hanger is currently a junior Opposition critic for Citizenship and Immigration, with special responsibility for Foreign Credentials. He is a former Opposition critic for the Solicitor General and for National Defense, and is currently a member of the SSLR.

The Honourable Hedy Fry

Hedy Fry is a politician and a physician. Fry won the Liberal Party nomination for Vancouver Centre for the 1993 federal election. She served as Parliamentary Secretary to the Minister of National Health and Welfare from 1993 until 1996 when she was appointed to the Cabinet as Secretary of State for Multiculturalism and Status of Women. After the 2004 election, she was named Parliamentary Secretary to the Minister of Citizenship and Immigration and the Minister of Human Resources and Skills Development with special emphasis on the Internationally Trained Workers Initiative. She served previously in the Status of Women, and is currently a member of the SSLR.

Paule Brunelle

Representing the riding of Trois-Rivieres, Quebec, since 2004, Brunelle is a member of the Bloc Quebecois. She has been a member of the Standing Committee on the Status of Women as well as the Standing Committee on Official Languages. She is the current Bloc Quebecois critic on the Status of Women. Paule Brunelle is a businesswoman and an executive director, and is currently serving as a member of the SSLR.

APPENDIX B

List of Witnesses Appearing Before the SSLR by Date

List of Witnesses Appearing Before the SSLR by Date

Meeting 1: Thursday, December 9, 2004

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger, Paule Brunelle

Lyne Casavant, *Committee Researcher*

Meeting 2: Tuesday, December 14, 2004

SSLR Members: John Maloney, Libby Davies, Paule Brunelle

Lyne Casavant, *Committee Researcher*

Meeting 3: Monday, January 31, 2005

SSLR Members: John Maloney, Libby Davies, Paule Brunelle

Mark Warawa (MP, Langley), acting on behalf of Conservative Party of Canada (CPC)

- Catherine Latimer, *Acting Assistant Deputy Minister, Criminal Law Policy and Community Justice Branch, Department of Justice*
- Lucie Angers, *Senior Counsel, Criminal Law Policy Section, Department of Justice*
- Patrice Corriveau, *Senior Policy Analyst, Criminal Law Policy Section, Department of Justice*
- Suzanne Wallace-Capretta, *Research Manager, Research and Statistics Division, Department of Justice*

Meeting 4: Wednesday, February 2, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

Lyne Casavant, *Committee Researcher*

- Paul Fraser, *Lawyer and Chair of the Special Committee on Pornography and Prostitution, Department of Justice, from 1983 to 1985, As Individual*

Meeting 5: Monday, February 7, 2005

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger, Paule Brunelle

Lyne Casavant, *Committee Researcher*

- Yolande Geadah, *Independent Author and Researcher, As Individual*
- Dr. Frances Shaver, *Professor, Department of Sociology and Anthropology, Concordia University*
- Michele Roy, *Spokesperson for the Regroupement Quebecois des CALACS, Regroupement Quebecois des centres d'aide et de lutte contre les agressions a caractere sexuel*
- Valerie Boucher, *Coordinator for the XXX Forum, Stella, As Individual*

Meeting 6: Wednesday, February 9, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

- Dr. Deborah Brock, *Professor, Department of Sociology, York University*
- Aurelie Lebrun, *Research Officer, Alliance de recherche IREF-Relais femmes*
- Lyne Kurtzman, *Research Officer, Alliance de recherche IREF-Relais femmes*

- Dr. Richard Poulin, *Full Professor, Department of Sociology, University of Ottawa*

Meeting 7: Monday, February 14, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger

Nicole Demers (MP, Laval), acting on behalf of Bloc Quebecois, BQ

- Dr. Marie-Andree Bertrand, *Professor Emeritus of Criminology, Criminology and Sociology of Law, University of Montreal*
- Gwendolyn Landolt, *National Vice-President, REAL Women of Canada*
- Cherry Kingsley, *National Coordinator, Canadian National Coalition of Experiential Women*

Meeting 8: Wednesday, February 16, 2005

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger, Paule Brunelle

Laura Barnett, *Committee Researcher*

- Danielle Shaw, *Director, Government Relations, Salvation Army*
- Dianna Bussey, *Director, Correctional and Justice Services, Salvation Army*
- Janet Epp Buckingham, *Director, Law and Public Policy, Evangelical Fellowship of Canada*
- Maggie DeVries, *As Individual*

Meeting 9: Monday, February 21, 2005

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Paule Brunelle

Inky Mark (MP, Dauphin – Swan River – Marquette), acting on behalf of the Conservative Party of Canada, CPC

- Dr. John Lowman, *Professor, School of Criminology, Simon Fraser University*

Meeting 10: Monday March 7, 2005

In camera- no transcripts available

Meeting 11: Wednesday, March 9, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

- Dr. Colette Parent, *Professor, Department of Criminology, University of Ottawa*
- Dr. Christine Bruckert, *Professor, Department of Criminology, University of Ottawa*

Meeting 12: Tuesday, March 15, 2005 [Toronto, ON]

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

Laura Barnett, *Committee Researcher*

Lyne Casavant, *Committee Researcher*

Round 1

- Glenn Betteridge, *Senior Policy Analyst, Canadian HIV/AIDS Legal Network*
- Detective Howard Page, *Toronto Police Service*
- Greg Paul, *Executive Director, Sanctuary Ministries of Toronto*
- Stephen Martin, *Coordinator, Sanctuary Ministries of Toronto*

- Susan Minor, *Director, Street Outreach Services, SOS*
- Mary Bone, *Director of Program Services, Canadian Centre for Abuse Awareness*
- Detective Sergeant John Muise, *Public Safety Advisor, Canadian Centre for Abuse Awareness*
- Kyle Rae, *Councillor, City of Toronto*

Round 2

- Benson Li, *As Individual*
- Lea Greenwood, *Coordinator, Sexual Exploitation Education and Awareness Campaign of Toronto*
- Evan Smith, *Coordinator, University of Toronto Genderqueer Group*
- Richard Hudler, *Sex Laws Committee*
- Maria-Belair Ordonez, *Sex Laws Committee*
- Reverend Dominic Tse, *President, Jubilee Centre for Christian Social Action*
- Detective Constable George Schuurman, *Toronto Police Service*
- Lorraine Hewitt, *Development Manager, Streetlight Support Services*
- Anastasia Kusyk, *Member, Sex Workers Alliance of Toronto*

Round 3

- Beverly McAleese, *Executive Director, Streetlight Support Services*
- Maurganne Mooney, *Member, Aboriginal Legal Services of Toronto*
- Valerie Scott, *Member, Sex Professionals of Canada*
- Jim Watkins, *Co-Chair, London Alliance to Support Sex Trade*
- Cindy Campbell, *Co-Chair, London Alliance to Support Sex Trade*
- Wendy Babcock, *Member, Sex Professionals of Canada*
- Sheila Lipiatt, *Chairperson, Parkdale Action Committee for Street Improvement*
- Leslie Milne, *As Individual*
- Amy X, *Member, Sex Professionals of Canada*

Meeting 13: Wednesday, March 16, 2005 [Montreal, QB]

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger, Paule Brunelle

Round 1

- Inspector Mario Leclerc, *Community Service, South Shore, Service de police de la Ville de Montreal*
- Raymond Viger, *Director General, Journal de la rue*
- Agnes Connat, *Member, Association des residents et residantes des Faubourge de Montreal*
- Lynn Dion, *Resource Person on STI/HIV Prevention and Youth Sexuality*
- Dianne Matte, *Coordinator, World March of Women*

Round 2

- Lise Beland, *As Individual*
- Paul Boyer, *As Individual*
- Catherine Prevost, *As Individual*
- Pierrette Thomas, *As Individual*
- Melanie Caron, *Community Development Counsellor, City of Montreal*
- Pat Nowakowska, *As Individual*

Round 3

- Jacques Moise, *Coordinator, Projet d'intervention aupres des mineurs prostitues*
- Jennifer Clamen, *Member, Coalition for the Rights of Sex Workers*
- Marc Drapeau, *Coordinator, Projet Intervention Prostitution Quebec Inc*
- Kathy Tremblay, *Development and Communications Officer, Action Sero Zero*
- Marianne Tonnelier, *Director General, Cactus Montreal*
- Darlene Palmer, *Group Coordinator, Cactus Montreal*
- Anna-Louise Crago, *Member, Coalition for the Rights of Sex Workers*

Meeting 14: Thursday, March 17, 2005 [Halifax, NS]

SSLR Members: John Maloney, Libby Davies, Paule Brunelle

- Cynthia MacIsaac, *Program Director, Direction 180*
- Constable Brian Johnston, *Halifax Regional Police*
- Constable Doug Mackinnon, *Halifax Regional Police*
- Dawn Sloane, *Councillor, Halifax City Council*
- Laurie Ehler, *Administrative Coordinator, Elizabeth Fry Society of Mainland Nova Scotia*
- Rene Ross, *Chair, Stepping Stone*
- Daniel Roukema, *Vice-Chair, Stepping Stone*
- Pam Rubin, *Research Coordinator, Women's Innovative Justice Initiative*

Meeting 15: Monday, March 21, 2005

SSLR Members: John Maloney, Hon. Hedy Fry, Art Hanger, Paule Brunelle

- Dr. Leslie Ann Jeffrey, *Professor, Department of History and Politics, University of New Brunswick*
- Dr. Gayle MacDonald, *Professor, Department of Sociology, St. Thomas University*

Meeting 16: Wednesday, March 23, 2005

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger, Paule Brunelle

- Jeff Leiper, *President, Hintonburg Community Association Inc*
- Cheryl Parrott, *Chair, Security Committee, Hintonburg Community Association Inc*
- Jay Baltz, *Board Member, Hintonburg Community Association Inc*

Meeting 17: Tuesday, March 29, 2005 [Vancouver, BC]

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger, Paule Brunelle

Real Menard (MP Hochelaga), acting on behalf of Bloc Quebecois, (BQ)

Round 1

- Katrina Pacey, *Director, PIVOT Legal Society*
- Kate Gibson, *Executive Director, WISH Drop-In Centre*
- Lucy Alderson, *Coordinator, WISH Drop-In Centre*
- Raven Bowen, *Coordinator, Prostitution Alternatives Counselling and Education Society and BC Coalition of Experiential Women*

- Susan Davies, *Board Chair, Prostitution Alternatives Counselling and Education Society*
- Shelley Woodman, *Executive Director, Prostitutes Empowerment Education and Resource Society*
- Kyla Kaun, *Director, Public Relations, Prostitutes Empowerment Education and Resource Society*
- Gwen Smith, *Member, Prostitutes Empowerment Education and Resource Society*
- Lauren Casey, *Member, Prostitutes Empowerment Education and Resource Society*
- Davi Pang, *Sex Workers Action Network*
- Cynthia Low, *Sex Workers Action Network*

Round 2

- Sandra Laframboise, *As Individual*
- Jamie Lee Hamilton, *As Individual*
- Raigen D'Angelo, *As Individual*

Meeting 18: Wednesday, March 30, 2005 [Vancouver, BC]

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger, Paule Brunelle

- Dr. Jacquelyn Nelson, *Director, Federal/Provincial Policy, BC Ministry of the Attorney General*
- Jacqueline Lynn, *Prostitution Researcher, As Individual*
- Ellen Woodsworth, *Councillor, City of Vancouver*
- Lynne Kennedy, *Member, Vancouver Police Board*
- Deputy Chief Doug Le Pard, *Vancouver Police Department*
- Patricia Barnes, *Executive Director, Hastings North Business Improvement Association*
- Liz Bennet, *Community Partner's Group, As Individual*
- Garth Barriere, *Barristor and Solicitor, Pink Triangle Press*
- Annie Parker, *As Individual*
- Janine Stevenson, *As Individual*
- Scarlett Lake, *As Individual*

Meeting 19: Thursday, March 31, 2005 [Edmonton, ALTA]

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

Round 1

- Michael Phair, *Councillor, City of Edmonton*
- Janice Melnychuk, *Councillor, City of Edmonton*
- Joe Ceci, *Alderman, Calgary City Council, City of Calgary*
- Kate Gunn, *Coordinator, Safer Cities Initiatives Advisory Committee, City of Edmonton*
- Kate Quinn, *Member, Safer Cities Initiatives Advisory Committee, City of Edmonton*
- Detective Jim Morrissey, *Edmonton Police Service*
- Detective Leonard Dafoe, *Calgary Police Service*

Round 2

- Peter Rausch, *Executive Director, Alberta Avenue Business Association*
- Elizabeth Hudson, *Author, As Individual*
- Shannon Ross Watson, *As Individual*
- Julie McNeice, *As Individual*
- Christina Basualdo, *Vice President, Alberta Avenue Neighbourhood Patrol*
- Hermina Dykxhoome, *Executive Director, Alberta Federation of Women United for Families*
- Madelyn McDonald, *Program Manager, Exit Community Outreach*

Round 3

- Peter Goldring, *Edmonton East, CPC*
- Pieter de Vos, *Community Organizer, Community Action Project*
- Shelly Severson, *As Individual*
- Victoria Hemming, *President, Parkdale/Cromdale Community Leagues*
- Shawna Hohendorff, *As Individual*
- Carol-Lynn Strachan, *As Individual*

Meeting 20: Friday, April 1, 2005 [Winnipeg, MAN]

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Paule Brunelle

Round 1

- Harvey Smith, *Councillor, City of Winnipeg*
- Harry Lazarenko, *Councillor, City of Winnipeg*
- Peter Veenendaal, *Research Coordinator, Reformed Perspective Foundation*
- Mzilikazi Ndlovu, *Safety Coordinator, Spence Neighbourhood Association*
- Inonge Aliaga, *Housing Coordinator, Spence Neighbourhood Association*
- Myfanwy Cawly, *Spokesperson, North End Safety Network*
- Nanette McKay, *Executive Director, North End Community Renewal Corporation*
- Reverend Harry Lehotsky, *Director, New Life Ministries*

Round 2

- Graham Reddoch, *Executive Director, John Howard Society of Manitoba*
- John Wilmot, *As Individual*
- Nick Ternette, *As Individual*
- George Vanwoudenberg, *As Individual*
- Larry Wucherer, *As Individual*
- Susan Strega, *Assistant Professor, Faculty of Social Work, University of Manitoba, Member of the Canadian National Coalition of Experiential Women*

Meeting 21: Monday, April 4, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

- Janice Raymond, *Co-Executive Director, Coalition Against Trafficking in Women International*

Meeting 22: Wednesday, April 6, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger

Laura Barnett, *Committee Researcher*

- Vincent Westwick, *Co-Chair, Law Amendments Committee, Canadian Association of Chiefs of Police*
- Chief Superintendent Frank Ryder, *Co-Chair, Law Amendments Committee, Canadian Association of Chiefs of Police*
- Staff Sergeant Terry Welsh, *Ottawa Police Service*
- Staff Sergeant Richard Dugal, *Ottawa Police Service*

Meeting 23: Monday, April 11, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

- Beverley Jacobs, *President, Native Women's Association of Canada*
- Cheryl Hotchkiss, *Women Human Rights Campaigner, Amnesty International Canada*

Meeting 24: Wednesday, April 13, 2005

SSLR Members: John Maloney, Art Hanger, Paule Brunelle

- Chief Superintendent Kevin Vickers, *Director General, National Contract Policing Branch, Community, Contract and Aboriginal Policing Services, Royal Canadian Mounted Police*

Meeting 25: Monday, April 18, 2005

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger, Paule Brunelle

- Rose Dufour, *Associate Researcher, Collectif de recherche sur l'itinérance, la pauvreté et l'exclusion sociale, Université du Québec à Montréal*
- Laurie Arron, *Director, Advocacy, Égale Canada*
- Stephen Lock, *Member, Board of Directors, Égale Canada*

Meeting 26: Wednesday, April 20, 2005

SSLR Members: Libby Davies, Art Hanger, Paule Brunelle

Derek Lee (MP Scarborough – Rouge River) Acting on Behalf of the Liberal Party

- Dr. Pamela Downe, *Department of Women's and Gender Studies, University of Saskatchewan*

Meeting 27: Monday, May 2, 2005

SSLR Members: John Maloney, Hon. Hedy Fry, Art Hanger, Paule Brunelle

Real Menard (MP Hochelaga) Acting on behalf of the Bloc Québécois

- Dr. Eleanor Maticka-Tyndale, *Professor, Department of Sociology and Anthropology, University of Windsor*
- Dr. Jacqueline Lewis, *Associate Professor, Department of Sociology and Anthropology, University of Windsor*
- Kara Gillies, *Chairperson, Maggie's: The Toronto Prostitutes' Community Service Centre*
- Dr. Maria Nengeh Mensah, *Professor-Researcher, School of Social Work, Université du Québec à Montréal*

Meeting 28: Wednesday, May 4, 2005

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry, Art Hanger

Laura Barnett, *Committee Researcher*

Real Menard (MP Hochelaga) Acting on behalf of the Bloc Quebecois

- Gunilla Ekberg, *Special Advisor, Issues Regarding Prostitution and Trafficking in Human Beings, Government of Sweden*

Meeting 29: Monday, May 9, 2005

SSLR Members: John Maloney, Paule Brunelle

Lyne Casavant, *Committee Researcher*

Real Menard (MP Hochelaga) Acting on behalf of the Bloc Quebecois

- His Excellency William Fisher, *High Commissioner, Australian High Commission*

Meeting 30: Wednesday, May 11, 2005

SSLR Members: John Maloney, Libby Davies, Hon. Hedy Fry

Laura Barnett, *Committee Researcher*

- Berry Vrbanovic, *Chair, Standing Committee on Community Safety and Crime Prevention, Federation of Canadian Municipalities*
- Ross MacInness, *Street Teams Initiatives*

Meeting 31: Monday, May 16, 2005

In camera- no transcripts available

Meeting 32: Wednesday, May 18, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

Julie Cool, *Committee Researcher*

- Doug Lang, *Director, New Opportunities for Women Canada Society*
- Catherine Williams-Jones, *Founder and Executive Director, New Opportunities for Women Canada Society*

Meeting 33: Monday, May 30, 2005

SSLR Members: John Maloney, Libby Davies, Art Hanger, Paule Brunelle

Lyne Casavant, *Committee Researcher*

- Jennifer Clamen, *Member and Coordinator for the XXX Forum, Coalition for the Rights of Sex Workers*
- Rene Ross, *Chair, Stepping Stone*
- Maurganne Mooney, *Member, Aboriginal Legal Services of Toronto*
- Dr. John Lowman, *Professor, School of Criminology, Simon Fraser University*
- Dr. Richard Poulin, *Full Professor, Department of Sociology, University of Ottawa*
- Dr. Frances Shaver, *Professor, Department of Sociology and Anthropology, Concordia University*
- Assistant Commissioner Darrell LaFosse, *Community, Contract and Aboriginal Policing Services, Royal Canadian Mounted Police*
- Katrina Pacey, *Director, PIVOT Legal Society*

- Kate Quinn, *Member, Prostitution Awareness and Action Foundation of Edmonton*
- Lee Lakeman, *Regional Representative for British Columbia and Yukon, Canadian Association of Sexual Assault Centres*
- Berry Vrbanovic, *Chair, Standing Committee on Community Safety and Crime Prevention, Federation of Canadian Municipalities*

APPENDIX C

Sections Pertaining to Prostitution in the *Criminal Code of Canada*

Sections Pertaining to Prostitution in the *Criminal Code of Canada*

Bawdy-house offences

210. 1. Everyone who keeps a common bawdy-house is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.
2. Everyone who
- (a) is an inmate of a common bawdy-house,
 - (b) is found, without lawful excuse, in a common bawdy-house, or
 - (c) as owner, landlord, lessor, tenant, occupier, agent or otherwise having a charge or control of any place, knowingly permits the place or any part thereof to be let or used for the purposes of a common bawdy-house, is guilty of an offence punishable on a summary conviction.
211. Everyone who knowingly takes, transports, directs, or offers to take, transport or direct any other person to a common-bawdy house is guilty of an offence punishable on summary conviction.

Procuring offences

212. 1. Everyone who
- (a) procures, attempts to procure or solicits a person to have illicit sexual intercourse with another person, whether in or out of Canada,
 - (b) inveigles or entices a person who is not a prostitute to a common bawdy-house for the purposes of illicit sexual intercourse or prostitution,
 - (c) knowingly conceals a person in a common bawdy-house
 - (d) procures or attempts to procure a person to become, whether in or out of Canada, a prostitute,
 - (e) procures or attempts to procure a person to leave the usual place of abode of the person in Canada, if that place is not a common bawdy-house, with intent that the person may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada,
 - (f) on the arrival of a person in Canada, directs or causes that person to be directed to take or causes that person to be taken, to a common bawdy-house,
 - (g) procures a person to enter or leave Canada, for the purpose of prostitution,
 - (h) for the purposes of gain, exercises control, direction or influence over the movements of a person in such a manner as to show that he is aiding, abetting or compelling that person to engage in or carry on prostitution with any person or generally,
 - (i) applies or administers to a person or causes that person to take any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower that person in order thereby to enable any person to have illicit sexual intercourse with that person, or
 - (j) lives wholly or in part on the avails of prostitution of another person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years

Communicating offences

213. 1. Every person who in a public place or in any place open to public view

- (a) stops or attempts to stop any motor vehicle,
- (b) impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place, or
- (c) stops or attempts to stop any person or in any manner communicates or attempts to communicate with any person for the purposes of engaging in prostitution or of obtaining the sexual services or a prostitute is guilty of an offence punishable on summary conviction.

2. In this section, “public place” includes any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view.

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